



243519

PHYSICAL DOCUMENT

LPS-n243519-v1

SETTLEMENT AGREEMENT; 45-DAY REVIEW

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Document Type: FILINGS

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Fileroom: LPS - Main Justice

DJ#:

Case Name:

Court: CA C.D. Cal.; 9th Cir.

Notes: SCANNED/UNASSIGNED. CENTER FOR COMMUNITY ACTION AND ENVIRONMENTAL JUSTICE V. TAMCO

Double-Sided:

Received Date: 8/25/2015

Urgent:

Oversize:

Bound Document:



Via Certified Mail

August 11, 2015

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1200 Pennsylvania Avenue, N.W.
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Washington, D.C. 20460


SEP 10 11 00 AM '15
ENVIRONMENTAL PROTECTION
AUG 25 11 14 AM '15

Re: *Center for Community Action and Environmental Justice v. TAMCO*; Case No. 5:14-cv-02583 – Settlement Agreement; 45-day review

Dear Citizen Suit Coordinators,

On August 11, 2015, the parties in the above-captioned case entered into a settlement agreement setting forth mutually agreeable settlement terms to resolve the matter in its entirety. Pursuant to the terms of the settlement agreement and 40 C.F.R. § 135.5, the enclosed settlement agreement is being submitted to the United States Environmental Protection Agency and the U.S. Department of Justice for a 45-day review period. If you have any questions regarding the settlement agreement, please feel free to contact me. Thank you for your attention to this matter.

Sincerely,


Douglas Chermak
Attorney for Plaintiff
Center for Community Action and Environmental Justice

Encl.

SETTLEMENT AGREEMENT AND MUTUAL RELEASE OF CLAIMS

This Settlement Agreement and Mutual Release of Claims ("AGREEMENT") is entered into between the Center for Community Action and Environmental Justice ("CCA EJ") and TAMCO (all parties collectively are referred to as the "SETTLING PARTIES") with respect to the following facts and objectives:

RECITALS

WHEREAS, CCA EJ is a 501(c)(3) non-profit, public benefit corporation organized under the laws of the State of California, dedicated to working with communities to improve the social and natural environment. Penny Newman is the Executive Director of CCA EJ;

WHEREAS, TAMCO owns and operates a steel manufacturing facility located at 12459-B Arrow Route in Rancho Cucamonga, California (the "Facility"). Through June 30, 2015, the Facility has operated pursuant to State Water Resources Control Board Water Quality Order No. 97-03-DWQ, National Pollutant Discharge Elimination System General Permit No. CAS000001, Waste Discharge Requirements for Discharges of Storm Water Associated with Industrial Activities Excluding Construction Activities. Beginning on July 1, 2015, the Facility has operated pursuant to State Water Resources Control Board Water Quality Order No. 2014-0057-DWQ, National Pollutant Discharge Elimination System General Permit No. CAS000001 (hereinafter "General Permit"). A map of the Facility is attached hereto as Exhibit A and incorporated by reference;

WHEREAS, on or about October 8, 2014, CCA EJ provided TAMCO with a Notice of Violation and Intent to File Suit ("60-Day Notice Letter") under Section 505 of the Federal Water Pollution Control Act (the "Act" or "Clean Water Act"), 33 U.S.C. § 1365;

WHEREAS, on December 18, 2014, CCA EJ filed its Complaint in the United States District Court for the Central District of California (*Center for Community Action and Environmental Justice v. TAMCO*, Case No. 5:14-cv-02583-JGB-DTB). A true and correct copy of the Complaint, including the 60-Day Notice Letter, is attached hereto as Exhibit B and incorporated by reference;

WHEREAS, TAMCO denies any and all of CCAEJ's claims in its 60-Day Notice Letter and Complaint;

WHEREAS, CCAEJ and TAMCO, through their authorized representatives and without either adjudication of CCAEJ's claims or admission by TAMCO of any alleged violation or other wrongdoing, have chosen to resolve in full CCAEJ's allegations in the 60-Day Notice Letter and Complaint through settlement and avoid the cost and uncertainties of further litigation; and

WHEREAS, CCAEJ and TAMCO have agreed that it is in their mutual interest to enter into this AGREEMENT setting forth the terms and conditions appropriate to resolving CCAEJ's allegations set forth in the 60-Day Notice Letter and Complaint.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, CCAEJ and TAMCO do hereby agree as follows:

EFFECTIVE DATE

1. The term "Effective Date," as used in this AGREEMENT, shall mean the last date on which the signature of a party to this AGREEMENT is executed.

COMMITMENTS OF CCAEJ

2. **Stipulation to Dismiss and [Proposed] Order.** Within ten (10) calendar days of the Agency Approval Date, as defined in Paragraph 18 below, CCAEJ shall file a Stipulation to Dismiss and [Proposed] Order thereon pursuant to Federal Rule of Civil Procedure 41(a)(2) with the United States District Court for the Central District of California ("District Court"), with this AGREEMENT attached and incorporated by reference, specifying that CCAEJ is dismissing with prejudice all claims in CCAEJ's Complaint. Consistent with Paragraphs 24 and 25 herein, the Stipulation to Dismiss and [Proposed] Order shall state that the District Court will maintain jurisdiction through the Termination Date, as defined in Paragraph 23 below, or through the conclusion of any proceeding to enforce this AGREEMENT, for purposes of resolving any disputes between the SETTLING PARTIES with respect to any provision of this AGREEMENT.

COMMITMENTS OF TAMCO

3. Compliance with General Permit. TAMCO agrees to operate the Facility in compliance with the applicable requirements of the General Permit and the Clean Water Act.

4. Implemented Storm Water Controls. TAMCO shall maintain in good working order all storm water collection and treatment systems at the Facility currently installed or to be installed pursuant to this AGREEMENT, including but not limited to, existing housekeeping measures.

5. Additional Best Management Practices. TAMCO shall implement the following structural best management practices ("BMPs") to improve the storm water pollution prevention measures at the Facility—the BMPs in Paragraphs 5.a and 5.c will be implemented on or before June 1, 2016 and the BMPs in Paragraph 5.b will be implemented on or before October 1, 2015:

a. TAMCO shall install diversion structures to route storm water run-on to the Facility around industrial areas at the Facility to outfalls located in the southwest and southeast corners of the Facility. These conveyances will prevent storm water run-on to the Facility from commingling with any storm water runoff from industrial areas at the Facility. TAMCO shall ensure that the storm water sampling locations at the Facility represent the storm water runoff from industrial areas at the Facility only. Exhibit C, attached hereto, includes a map showing the diversionary structures as well as narrative description of the structures describing their location and purpose.

b. To minimize erosion potential from the unlined drainage channels in the southeastern corner of the Facility, one directly north and one directly west of the storm water outfall, TAMCO shall install check dams (comprised of sediment filter socks) at selected intervals perpendicular to the direction of storm water flow. TAMCO shall inspect and maintain the check dams on a monthly basis. TAMCO shall maintain a log of its inspections and any corrective actions taken.

c. To prevent contact of storm water flow with sand-blast material and metals in the Sand Blast Area, located west of the Warehouse/Fabrication Shop, TAMCO shall install a concrete pad with curbing. TAMCO shall remove and dispose of residue on the pad on a weekly to monthly basis. TAMCO shall inspect and maintain the concrete pad on a monthly basis. TAMCO shall maintain a log of its inspections and any corrective actions taken.

6. Confirmation of New Structural BMPs. By October 15, 2015, TAMCO shall confirm the installation of the measures described above in Paragraph 5.b by submitting digital photos to CCAEJ. By June 15, 2016, TAMCO shall confirm the installation of the measures described above in Paragraphs 5.a and 5.c by submitting digital photos to CCAEJ.

7. Additional Non-Structural BMPs. TAMCO shall implement the following non-structural BMPs to improve the storm water pollution prevention measures at the Facility on or before October 1, 2015.

a. TAMCO shall prevent storm water from contacting raw materials in the Raw Material Storage Area located west of the Melt Shop and north of the Warehouse/Fabrication Shop. TAMCO shall inspect and maintain concrete material bays on a monthly basis. TAMCO shall remove, retain, or dispose of any contained storm water. TAMCO shall maintain a log of its inspections and any corrective actions taken.

b. To reduce or eliminate spillage of any lime on concrete pavement in the Lime Storage Area located north of the Melt Shop, TAMCO shall perform weekly cleaning of the Lime Storage Area to remove any spillages of lime. TAMCO shall maintain a log of its inspections, spillage removal activities, and any corrective actions taken.

8. Monitoring. TAMCO shall analyze each storm water sample taken in accordance with the General Permit and this AGREEMENT for, at a minimum, pH, total suspended solids, oil and grease, lead, zinc, iron, aluminum, copper, cadmium, and manganese.

9. Monitoring Results. Results from the Facility's sampling and analysis during the term of this AGREEMENT shall be provided to CCAEJ within thirty (30) days of receipt of the sampling results by TAMCO or its counsel.

10. Meet and Confer Regarding Exceedance of NALs. If the Facility's storm water sampling results during the 2015-2016, 2016-2017, or 2017-2018 reporting years indicate that the average of the analytical results for a particular parameter indicates that storm water discharges from the Facility exceed the annual NALs (as set forth in the General Permit) or if two or more analytical results from samples taken for any parameter within the 2015-2016 or 2016-2017 reporting year exceed the instantaneous maximum NAL, TAMCO agrees to take responsive actions to improve its storm water management practices, including re-evaluating its structural and non-structural BMPs and considering implementing additional BMPs aimed at reducing levels observed in storm water samples.

In furtherance of that objective, TAMCO shall prepare a written statement ("Memorandum") discussing:

- (1) Any exceedance or exceedances of NALs;
- (2) An explanation of the possible cause(s) and/or source(s) of any exceedance;
and
- (3) Responsive actions to improve its storm water management practices, including modified or additional feasible BMPs to be considered to further reduce the possibility of future exceedance(s), and the proposed dates that such actions will be taken.

Such Memorandum shall be e-mailed and sent via first class mail to CCAEJ not later than July 30th during each year of this AGREEMENT.

11. Upon receipt of the Memorandum, CCAEJ may review and comment on any identified or omitted additional measures. If requested by CCAEJ within thirty (30) days of receipt of such Memorandum, CCAEJ and TAMCO shall meet and confer to discuss the contents of the Memorandum and the adequacy of proposed measures to improve the quality of the Facility's storm water to levels at or below the NALs. If requested by CCAEJ within thirty (30) days of receipt of such Memorandum, CCAEJ and TAMCO shall meet and confer and conduct a

site inspection within sixty (60) days after the due date of the Memorandum to discuss the contents of the Memorandum and the adequacy of proposed measures to improve the quality of the Facility's storm water to levels at or below the NALs. If within twenty-one (21) days of the parties meeting and conferring, the parties do not agree on the adequacy of the additional measures set forth in the Memorandum, the SETTLING PARTIES may agree to seek a settlement conference with the Magistrate Judge assigned to this action pursuant to Paragraphs 24 and 25 below. If the SETTLING PARTIES fail to reach agreement on additional measures, CCAEJ may bring a motion before the District Court consistent with Paragraphs 24 and 25 below. If CCAEJ does not request a meet and confer regarding the Memorandum within the thirty (30) day period provided for in this paragraph, CCAEJ shall waive any right to object to such Memorandum pursuant to this AGREEMENT. The Parties may agree in writing to extend any dates contained in this paragraph in order to further this paragraph's meet and confer procedure.

12. Any concurrence or failure to object by CCAEJ with regard to the reasonableness of any additional measures required by this AGREEMENT or implemented by TAMCO shall not be deemed to be an admission of the adequacy of such measures should they fail to bring the Facility's storm water discharges into compliance with applicable water quality criteria or the BAT/BCT requirements set forth in the General Permit.

13. Provision of Documents and Reports. During the life of this AGREEMENT, TAMCO shall provide CCAEJ with a copy of all documents submitted to the Regional Board, the State Water Resources Control Board ("State Board") or any POTW concerning the Facility's storm water discharges, including but not limited to all documents and reports submitted to the Regional Board and/or State Board as required by the General Permit. Such documents and reports shall be mailed to CCAEJ contemporaneously with submission to such agency. Within fourteen business (14) days of a written request (via e-mail or regular mail) by CCAEJ, TAMCO also shall provide CCAEJ a copy of all documents referenced in this AGREEMENT from the year prior to the request, including but not limited to logs, photographs, or analyses.

14. Amendment of Storm Water Pollution Prevention Plan (“SWPPP”). Within sixty (60) days after the District Court’s entry of the Order, TAMCO shall amend the Facility’s SWPPP to incorporate all changes, improvements, sample log forms, and best management practices set forth in or resulting from Paragraphs 5.b and 7.a and 7.b of this AGREEMENT. TAMCO shall ensure that all maps, tables, and text comply with the requirements of the General Permit. TAMCO shall ensure that the SWPPP describes all structural and non-structural BMPs and details the measures to be installed. A copy of the amended SWPPP shall be provided to CCAEJ within thirty (30) days of completion.

15. Mitigation Payment. In recognition of the good faith efforts by TAMCO to comply with all aspects of the General Permit and the Clean Water Act, and in lieu of payment by TAMCO of any penalties, which have been disputed but may have been assessed in this action if it had been adjudicated adverse to TAMCO, the SETTLING PARTIES agree that TAMCO will pay the sum of thirty five thousand dollars (\$35,000) to the Rose Foundation for Communities and the Environment (“Rose Foundation”) for the sole purpose of providing grants to environmentally beneficial projects relating to water quality improvements in the Santa Ana River watershed. Payment shall be provided to the Rose Foundation as follows: Rose Foundation, 1970 Broadway, Suite 600, Oakland, CA 94607, Attn: Tim Little. Payment shall be made by TAMCO to the Rose Foundation within forty-five (45) calendar days of the District Court’s entry of the Order dismissing the action described in Paragraph 2 of this AGREEMENT. TAMCO shall copy CCAEJ with any correspondence and a copy of the check sent to the Rose Foundation. The Rose Foundation shall provide notice to the SETTLING PARTIES within thirty (30) days of when the funds are dispersed by the Rose Foundation, setting forth the recipient and purpose of the funds.

16. Fees, Costs, and Expenses. As reimbursement for CCAEJ’s investigative, expert and attorneys’ fees and costs, TAMCO shall pay CCAEJ the sum of twenty-three thousand dollars (\$23,000). Payment shall be made by TAMCO within forty-five (45) calendar days of the District Court’s entry of the Order dismissing the action described in Paragraph 2 of this AGREEMENT. Payment by TAMCO to CCAEJ shall be made in the form of a single check payable to “Lozeau Drury LLP,” and shall constitute full payment for all costs of litigation,

including investigative, expert and attorneys' fees and costs incurred by CCAEJ that have or could have been claimed in connection with CCAEJ's claims, up to and including the District Court's entry of the Order.

17. Compliance Oversight Costs. As reimbursement for CCAEJ's future fees and costs that will be incurred in order for CCAEJ to monitor TAMCO's compliance with this AGREEMENT and to effectively meet and confer and evaluate storm water monitoring results for the Facility, TAMCO agrees to reimburse CCAEJ for its reasonable fees and costs incurred in overseeing the implementation of this AGREEMENT up to but not exceeding three thousand (\$3,000) per reporting year. Fees and costs reimbursable pursuant to this paragraph may include, but are not limited to, those incurred by CCAEJ or its counsel to conduct site inspections, review water quality sampling reports, review annual reports, discussion with representatives of TAMCO concerning potential changes to compliance requirements, preparation and participation in meet and confer sessions and mediation, and water quality sampling. No later than 30 calendar days after the end of each wet season or reporting year covered by this AGREEMENT, CCAEJ shall provide an invoice containing an itemized description for any fees and costs incurred in overseeing the implementation of this AGREEMENT during the prior reporting year. Up to three annual payments (one addressing any monitoring associated with the 2015-2016 reporting year, and one addressing monitoring associated with the 2016-2017 reporting year, and one addressing any monitoring associated with the 2017-2018 reporting year) shall be made payable to "Lozeau Drury LLP" within ninety (90) days of receipt of an invoice from CCAEJ that contains an itemized description of fees and costs incurred by CCAEJ to monitor implementation of the AGREEMENT during the previous twelve (12) months.

18. Review by Federal Agencies. CCAEJ shall submit this AGREEMENT to the U.S. EPA and the U.S. Department of Justice (hereinafter, the "Agencies") via certified mail, return receipt requested, within five (5) days after the Effective Date of this AGREEMENT for review consistent with 40 C.F.R. § 135.5. The Agencies' review period expires forty-five (45) days after receipt of the AGREEMENT by both Agencies, as evidenced by the return receipts and the confirming correspondence of DOJ. In the event that the Agencies comment negatively on the provisions of this AGREEMENT, CCAEJ and TAMCO agree to meet and confer to

attempt to resolve the issue(s) raised by the Agencies. If CCAEJ and TAMCO are unable to resolve any issue(s) raised by the Agencies in their comments, CCAEJ and TAMCO agree to expeditiously seek a settlement conference with the Magistrate Judge assigned to this matter to resolve the issue(s). If the SETTLING PARTIES cannot resolve the issue(s) through a settlement conference, this AGREEMENT shall be null and void. The date of (a) the Agencies' unconditioned approval of this AGREEMENT, (b) the expiration of the Agencies' review period, or (c) the SETTLING PARTIES' resolution of all issues raised by the Agencies, whichever is earliest, shall be defined as the "Agency Approval Date."

NO ADMISSION OR FINDING

19. Neither this AGREEMENT nor any payment pursuant to the AGREEMENT nor compliance with this AGREEMENT shall constitute evidence or be construed as a finding, adjudication, or acknowledgment of any fact, law or liability, nor shall it be construed as an admission of violation of any law, rule or regulation. However, this AGREEMENT and/or any payment pursuant to the AGREEMENT may constitute evidence in actions seeking compliance with this AGREEMENT.

MUTUAL RELEASE OF LIABILITY AND COVENANT NOT TO SUE

20. In consideration of the above, and except as otherwise provided by this AGREEMENT, the SETTLING PARTIES hereby forever and fully release each other and their respective parents, affiliates, subsidiaries, divisions, insurers, successors, assigns, and current and former employees, attorneys, officers, directors, members, shareholders, and agents from any and all claims and demands of any kind, nature, or description whatsoever, known and unknown, and from any and all liabilities, damages, injuries, actions or causes of action, either at law or in equity, which it may presently have, or which may later accrue or be acquired by it, arising from the Complaint or Notice Letters, including, without limitation, all claims for injunctive relief, damages, penalties, fines, sanctions, mitigation, fees (including fees of attorneys, experts, and others), costs, expenses or any other sum incurred or claimed or which could have been claimed in the Complaint or Notice Letters, for the alleged failure of Defendant

to comply with the Clean Water Act at the Facility, up to and including the Termination Date of this AGREEMENT, as defined in Paragraph 23.

21. The SETTLING PARTIES acknowledge that they are familiar with section 1542 of the California Civil Code, which provides:

A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

The SETTLING PARTIES hereby waive and relinquish any rights or benefits they may have under California Civil Code section 1542 with respect to any other claims against each other arising from, or related to, the allegations and claims as set forth in the 60-Day Notice Letter and Complaint at the Facility up to and including the Termination Date of this AGREEMENT.

22. For the period beginning on the Effective Date and ending on the Termination Date, neither CCAEJ, its officers, executive staff, members of its Steering Committee will not file or support other lawsuits, by providing financial assistance, personnel time or other affirmative actions, against or relating to the Facility that may be proposed by other groups or individuals who would rely upon the citizen suit provision of the Clean Water Act to challenge the Facility's compliance with the Clean Water Act, or the General Permit.

TERMINATION DATE OF AGREEMENT

23. Unless an extension is agreed to in writing by the SETTLING PARTIES, this AGREEMENT shall terminate on February 15, 2019 (the "Termination Date"), or through the conclusion of any proceeding to enforce this AGREEMENT, or until the completion of any payment or affirmative duty required by this AGREEMENT.

DISPUTE RESOLUTION PROCEDURES

24. Except as specifically noted herein, any disputes with respect to any of the provisions of this AGREEMENT shall be resolved through the following procedure. The

SETTLING PARTIES agree to first meet and confer in good faith to resolve any dispute arising under this AGREEMENT. In the event that such disputes cannot be resolved through this meet and confer process, the SETTLING PARTIES agree to request a settlement meeting before the Magistrate Judge assigned to this action. In the event that the SETTLING PARTIES cannot resolve the dispute by the conclusion of the settlement meeting with the Magistrate Judge, the SETTLING PARTIES agree to submit the dispute via motion to the District Court.

25. In resolving any dispute arising from this AGREEMENT, the Court shall have discretion to award attorneys' fees and costs to either party. The relevant provisions of the then-applicable Clean Water Act and Rule 11 of the Federal Rules of Civil Procedure shall govern the allocation of fees and costs in connection with the resolution of any disputes before the District Court. The District Court shall award relief limited to compliance orders and awards of attorneys' fees and costs, subject to proof. The SETTLING PARTIES agree to file any waivers necessary for the Magistrate Judge to preside over any settlement conference and motion practice.

GENERAL PROVISIONS

26. **Impossibility of Performance.** Where implementation of the actions set forth in this AGREEMENT, within the deadlines set forth in those paragraphs, becomes impossible, despite the timely good faith efforts of the SETTLING PARTIES, the party who is unable to comply shall notify the other in writing within seven (7) days of the date that the failure becomes apparent, and shall describe the reason for the non-performance. The SETTLING PARTIES agree to meet and confer in good faith concerning the non-performance and, where the SETTLING PARTIES concur that the non-performance was or is impossible, despite the timely good faith efforts of one of the SETTLING PARTIES, new performance deadlines shall be established. In the event that the SETTLING PARTIES cannot timely agree upon the terms of such a stipulation, either of the SETTLING PARTIES shall have the right to invoke the dispute resolution procedure described herein.

27. **Construction.** The language in all parts of this AGREEMENT shall be construed according to its plain and ordinary meaning, except as to those terms defined by law, in the General Permit, and the Clean Water Act or specifically herein.

28. **Choice of Law.** This AGREEMENT shall be governed by the laws of the United States, and where applicable, the laws of the State of California.

29. **Severability.** In the event that any provision, section, or sentence of this AGREEMENT is held by a court to be unenforceable, the validity of the enforceable provisions shall not be adversely affected.

30. **Correspondence.** All notices required herein or any other correspondence pertaining to this AGREEMENT shall be sent by regular, certified, overnight mail, or e-mail as follows:

If to CCA EJ:	<u>Penny Newman,</u> <u>Executive Director</u> <u>Center for Community Action and</u> <u>Environmental Justice</u> <u>P.O. Box 33124</u> <u>Riverside, CA 92519</u> <u>(951) 360-8451</u> <u>Penny.newman@ccaej.org</u>	Copy to:	<u>Michael R. Lozeau</u> <u>Douglas J. Chermak</u> <u>Lozeau Drury LLP</u> <u>410 12th Street, Suite 250</u> <u>Oakland, CA 94607</u> <u>(510) 836-4200</u> <u>michael@lozeaudrury.com</u> <u>doug@lozeaudrury.com</u>
If to TAMCO:	<u>Mark Olson</u> <u>Vice President/General Manager</u> <u>Gerdau-Rancho Cucamonga Mill</u> <u>12459 Arrow Route</u> <u>Rancho Cucamonga, CA 91739</u> <u>(909) 646-7883</u>	Copy to:	<u>Andrew M. Thompson</u> <u>Smith, Gambrell & Russell</u> <u>LLP</u> <u>1230 Peachtree Street, N.E.</u> <u>Atlanta, GA 30309-3592</u> <u>(404) 815-3701</u> <u>athompson@sgrlaw.com</u>

Notifications of communications shall be deemed submitted on the date that they are e-mailed, postmarked and sent by first-class mail or deposited with an overnight mail/delivery service. Any change of address or addresses shall be communicated in the manner described above for giving notices.

31. Counterparts. This AGREEMENT may be executed in any number of counterparts, all of which together shall constitute one original document. Telecopied, scanned (.pdf), and/or facsimiled copies of original signature shall be deemed to be originally executed counterparts of this AGREEMENT.

32. Assignment. Subject only to the express restrictions contained in this AGREEMENT, all of the rights, duties and obligations contained in this AGREEMENT shall inure to the benefit of and be binding upon the SETTLING PARTIES, and their successors and assigns.

33. Modification of the Agreement. This AGREEMENT, and any provisions herein, may not be changed, waived, discharged or terminated unless by a written instrument, signed by the SETTLING PARTIES.

34. Full Settlement. This AGREEMENT constitutes a full and final settlement of this matter. It is expressly understood and agreed that the AGREEMENT has been freely and voluntarily entered into by the SETTLING PARTIES with and upon advice of counsel.

35. Integration Clause. This is an integrated AGREEMENT. This AGREEMENT is intended to be a full and complete statement of the terms of the agreement between the SETTLING PARTIES and expressly supersedes any and all prior oral or written agreements, covenants, representations and warranties (express or implied) concerning the subject matter of this AGREEMENT.

36. Authority. The undersigned representatives for CCAEJ and TAMCO each certify that he/she is fully authorized by the party whom he/she represents to enter into the terms and conditions of this AGREEMENT.

The SETTLING PARTIES hereby enter into this AGREEMENT.

TAMCO

By: _____
Name: Mark Olson
Title: Vice President/General
Manager
Date: _____

**CENTER FOR COMMUNITY ACTION
AND ENVIRONMENTAL JUSTICE**

By: Penny Newman
Name: Penny Newman
Title: Executive Director
Date: 8-6-15

APPROVED AS TO FORM:

For Defendant

**SMITH, GAMBRELL & RUSSELL,
LLP**

For: Plaintiff

LOZEAU DRURY LLP

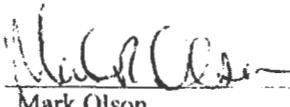
By: _____
Name: Andrew M. Thompson, Esq.
Date: _____

By: _____
Name: Douglas J. Chermak, Esq.
Date: _____

The SETTLING PARTIES hereby enter into this AGREEMENT.

TAMCO

**CENTER FOR COMMUNITY ACTION
AND ENVIRONMENTAL JUSTICE**

By: 
Name: Mark Olson
Title: Vice President/General
Manager
Date: 8/7/2015

By: _____
Name: Penny Newman
Title: Executive Director
Date: _____

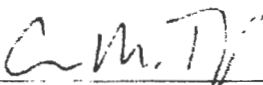
APPROVED AS TO FORM:

For Defendant

For: Plaintiff

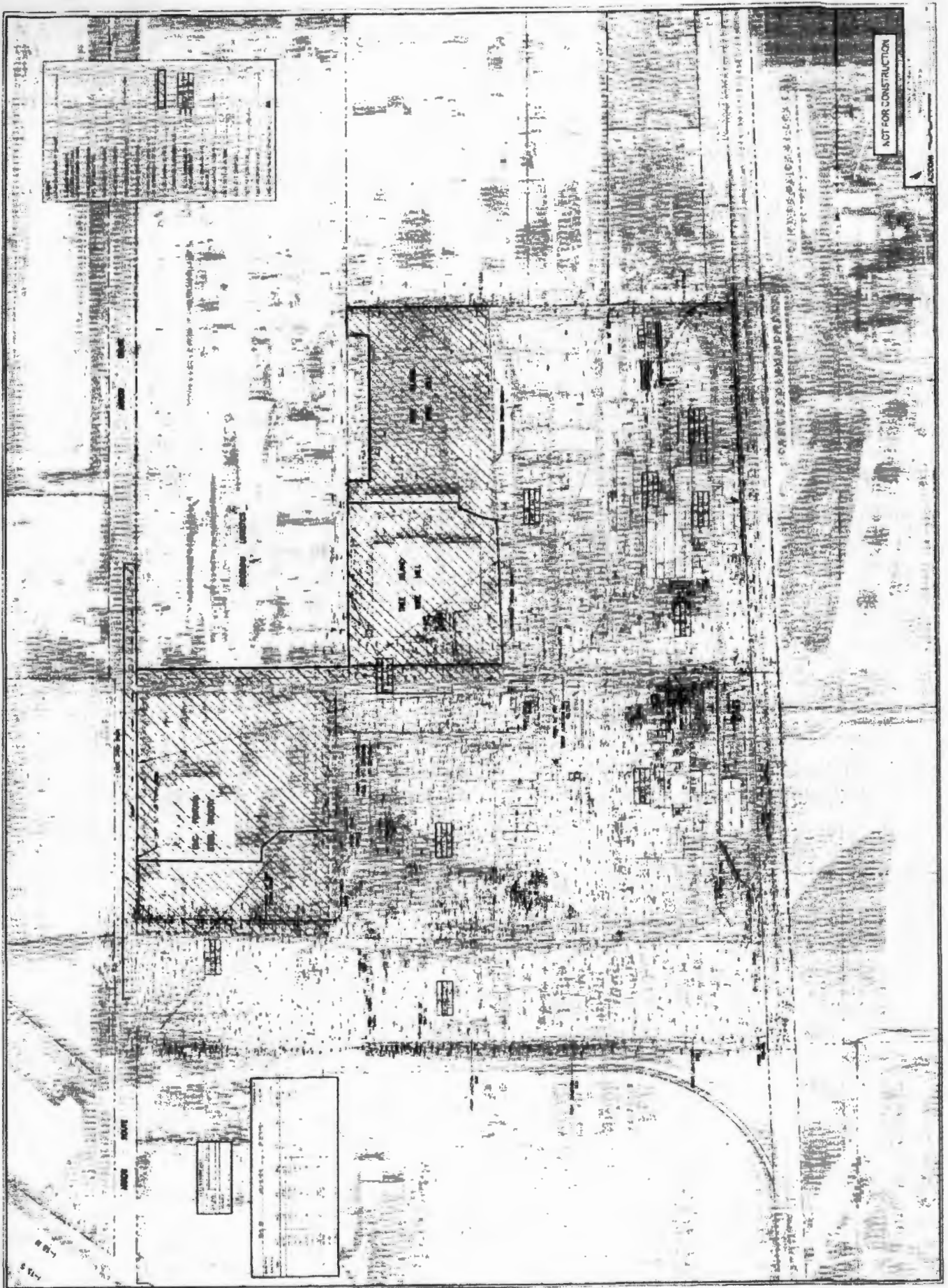
**SMITH, GAMBRELL & RUSSELL,
LLP**

LOZEAU DRURY LLP

By: 
Name: Andrew M. Thompson, Esq.
Date: 8/7/2015

By: _____
Name: Douglas J. Chermak, Esq.
Date: _____

EXHIBIT A



NOT FOR CONSTRUCTION

Accom

ROUTE

NOT FOR CONSTRUCTION

EXHIBIT B

1 Michael R. Lozeau (State Bar No. 142893)
2 Richard T. Drury (State Bar No. 163559)
3 Douglas J. Chermak (State Bar No. 233382)
4 LOZEAU DRURY LLP
5 410 12th Street, Suite 250
6 Oakland, CA 94607
7 Tel: (510) 836-4200
8 Fax: (510) 836-4205 (fax)
9 E-mail: michael@lozeaudrury.com
10 richard@lozeaudrury.com
11 doug@lozeaudrury.com

12 Gideon Kracov (State Bar No. 179815)
13 LAW OFFICE OF GIDEON KRACOV
14 801 S. Grand Avenue, 11th Floor
15 Los Angeles, CA 90017-4645
16 Tel: (213) 629-2071
17 Fax: (213) 623-7755
18 Email: gk@gideonlaw.net

19 Attorneys for Plaintiff
20 CENTER FOR COMMUNITY
21 ACTION AND ENVIRONMENTAL
22 JUSTICE

23 **UNITED STATES DISTRICT COURT**
24 **CENTRAL DISTRICT OF CALIFORNIA**

25 CENTER FOR COMMUNITY
26 ACTION AND ENVIRONMENTAL
27 JUSTICE, a non-profit corporation,

28 Plaintiff,

vs.

TAMCO, a corporation,
Defendant.

Case No. 5:14-cv-2583

**COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF AND CIVIL
PENALTIES**

(Federal Water Pollution Control Act,
33 U.S.C. §§ 1251 to 1387)

CENTER FOR COMMUNITY ACTION AND ENVIRONMENTAL JUSTICE
("CCAECJ"), a California non-profit association, by and through its counsel, hereby

COMPLAINT

1 alleges:

2 **I. JURISDICTION AND VENUE**

3
4 1. This is a civil suit brought under the citizen suit enforcement provisions
5 of the Federal Water Pollution Control Act, 33 U.S.C. § 1251, *et seq.* (the “Clean
6 Water Act” or “the Act”). This Court has subject matter jurisdiction over the parties
7 and the subject matter of this action pursuant to Section 505(a)(1)(A) of the Act, 33
8 U.S.C. § 1365(a)(1)(A), and 28 U.S.C. § 1331 (an action arising under the laws of the
9 United States). The relief requested is authorized pursuant to 28 U.S.C. §§ 2201-02
10 (power to issue declaratory relief in case of actual controversy and further necessary
11 relief based on such a declaration); 33 U.S.C. §§ 1319(b), 1365(a) (injunctive relief);
12 and 33 U.S.C. §§ 1319(d), 1365(a) (civil penalties).

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16 2. On October 8, 2014, Plaintiff provided notice of Defendant’s violations
17 of the Act, and of its intention to file suit against Defendant, to the Administrator of
18 the United States Environmental Protection Agency (“EPA”); the Administrator of
19 EPA Region IX; the Executive Director of the State Water Resources Control Board
20 (“State Board”); the Executive Officer of the California Regional Water Quality
21 Control Board, Santa Ana Region (“Regional Board”); and to Defendant, as required
22 by the Act, 33 U.S.C. § 1365(b)(1)(A). A true and correct copy of CCAEJ’s notice
23 letter is attached as Exhibit A, and is incorporated by reference.
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28 3. More than sixty days have passed since notice was served on Defendant

1 and the State and federal agencies. Plaintiff is informed and believes, and thereupon
2 alleges, that neither the EPA nor the State of California has commenced or is
3 diligently prosecuting a court action to redress the violations alleged in this
4 complaint. This action's claim for civil penalties is not barred by any prior
5 administrative penalty under Section 309(g) of the Act, 33 U.S.C. § 1319(g).
6

7
8 4. Venue is proper in the Central District of California pursuant to Section
9 505(c)(1) of the Act, 33 U.S.C. § 1365(c)(1), because the source of the violations is
10 located within this judicial district.
11

12 **II. INTRODUCTION**

13
14 5. This complaint seeks relief for Defendant's discharges of polluted storm
15 water and non-storm water pollutants from Defendant TAMCO's industrial facility
16 located at 12459 B Arrow Route in Rancho Cucamonga, California ("the Facility") in
17 violation of the Act and National Pollutant Discharge Elimination System ("NPDES")
18 Permit No. CAS000001, State Water Resources Control Board Water Quality Order
19 No. 91-13-DWQ, as amended by Water Quality Order No. 92-12-DWQ and Water
20 Quality Order No. 97-03-DWQ (hereinafter the "Permit" or "General Permit").
21
22 Defendant's violations of the discharge, treatment technology, monitoring
23 requirements, and other procedural and substantive requirements of the Permit and
24 the Act are ongoing and continuous.
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1 **III. PARTIES**

2 6. Plaintiff CENTER FOR COMMUNITY ACTION AND
3 ENVIRONMENTAL JUSTICE ("CCA EJ") is a non-profit public benefit corporation
4 under the laws of the State of California with its main office in Jurupa Valley,
5 California. CCA EJ is dedicated to working with communities to advocate for
6 environmental justice and pollution prevention. CCA EJ and its members are deeply
7 concerned with protecting the environment in and around their communities,
8 including the Santa Ana River Watershed. To further these goals, CCA EJ actively
9 seeks federal and state agency implementation of the Act and other laws and, where
10 necessary, directly initiates enforcement actions on behalf of itself and its members.
11

12 7. CCA EJ has members living in the community adjacent to the Facility
13 and the Santa Ana River Watershed. They enjoy using the Santa Ana River for
14 recreation and other activities. Members of CCA EJ use and enjoy the waters into
15 which Defendant has caused, is causing, and will continue to cause, pollutants to be
16 discharged. Members of CCA EJ use those areas to recreate and view wildlife, among
17 other things. Defendant's discharges of pollutants threaten or impair each of those
18 uses or contribute to such threats and impairments. Thus, the interests of CCA EJ's
19 members have been, are being, and will continue to be adversely affected by
20 Defendant's failure to comply with the Clean Water Act and the Permit. The relief
21 sought herein will redress the harms to Plaintiff caused by Defendant's activities.
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1 8. Continuing commission of the acts and omissions alleged above will
2 irreparably harm Plaintiff and its members, for which harm they have no plain, speedy
3 or adequate remedy at law.
4

5 9. Defendant Tamco is a corporation that operates an industrial steel mini-
6 mill facility in Rancho Cucamonga, California.
7

8 **IV. STATUTORY BACKGROUND**

9 10. Section 301(a) of the Act, 33 U.S.C. § 1311(a), prohibits the discharge
10 of any pollutant into waters of the United States, unless such discharge is in
11 compliance with various enumerated sections of the Act. Among other things,
12 Section 301(a) prohibits discharges not authorized by, or in violation of, the terms of
13 an NPDES permit issued pursuant to Section 402 of the Act, 33 U.S.C. § 1342.
14

15 11. Section 402(p) of the Act establishes a framework for regulating
16 municipal and industrial storm water discharges under the NPDES program. 33
17 U.S.C. § 1342(p). States with approved NPDES permit programs are authorized by
18 Section 402(p) to regulate industrial storm water discharges through individual
19 permits issued to dischargers or through the issuance of a single, statewide general
20 permit applicable to all industrial storm water dischargers. 33 U.S.C. § 1342(p).
21

22 12. Pursuant to Section 402 of the Act, 33 U.S.C. § 1342, the Administrator
23 of the U.S. EPA has authorized California's State Board to issue NPDES permits
24 including general NPDES permits in California.
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1 13. The State Board elected to issue a statewide general permit for industrial
2 storm water discharges. The State Board issued the General Permit on or about
3 November 19, 1991, modified the General Permit on or about September 17, 1992,
4 and reissued the General Permit on or about April 17, 1997, pursuant to Section
5 402(p) of the Clean Water Act, 33 U.S.C. § 1342(p).
6

7
8 14. In order to discharge storm water lawfully in California, industrial
9 dischargers must comply with the terms of the General Permit or have obtained and
10 complied with an individual NPDES permit. 33 U.S.C. § 1311(a).
11

12 15. The General Permit contains several prohibitions. Effluent Limitation
13 B(3) of the General Permit requires dischargers to reduce or prevent pollutants in
14 their storm water discharges through implementation of the Best Available
15 Technology Economically Achievable ("BAT") for toxic and nonconventional
16 pollutants and the Best Conventional Pollutant Control Technology ("BCT") for
17 conventional pollutants. BAT and BCT include both nonstructural and structural
18 measures. General Permit, Section A(8). Discharge Prohibition A(2) of the General
19 Permit prohibits storm water discharges and authorized non-storm water discharges
20 that cause or threaten to cause pollution, contamination, or nuisance. Receiving
21 Water Limitation C(1) of the General Permit prohibits storm water discharges to any
22 surface or ground water that adversely impact human health or the environment.
23 Receiving Water Limitation C(2) of the General Permit prohibits storm water
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1 discharges that cause or contribute to an exceedance of any applicable water quality
2 standards contained in Statewide Water Quality Control Plan or the applicable
3 Regional Board's Basin Plan.
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5 16. In addition to absolute prohibitions, the General Permit contains a
6 variety of substantive and procedural requirements that dischargers must meet.
7
8 Facilities discharging, or having the potential to discharge, storm water associated
9 with industrial activity that have not obtained an individual NPDES permit must
10 apply for coverage under the State's General Permit by filing a Notice of Intent to
11 Comply ("NOI"). The General Permit requires existing dischargers to have filed their
12 NOIs before March 30, 1992.
13
14

15 17. Dischargers must develop and implement a Storm Water Pollution
16 Prevention Plan ("SWPPP"). The SWPPP must describe storm water control
17 facilities and measures that comply with the BAT and BCT standards. The General
18 Permit requires that an initial SWPPP have been developed and implemented before
19 October 1, 1992. The SWPPP must, among other requirements, identify and evaluate
20 sources of pollutants associated with industrial activities that may affect the quality of
21 storm and non-storm water discharges from the facility and identify and implement
22 site-specific best management practices ("BMPs") to reduce or prevent pollutants
23 associated with industrial activities in storm water and authorized non-storm water
24 discharges (Section A(2)). The SWPPP's BMPs must implement BAT and BCT
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1 (Section B(3)). The SWPPP must include: a description of individuals and their
2 responsibilities for developing and implementing the SWPPP (Section A(3)); a site
3 map showing the facility boundaries, storm water drainage areas with flow pattern
4 and nearby water bodies, the location of the storm water collection, conveyance and
5 discharge system, structural control measures, impervious areas, areas of actual and
6 potential pollutant contact, and areas of industrial activity (Section A(4)); a list of
7 significant materials handled and stored at the site (Section A(5)); a description of
8 potential pollutant sources including industrial processes, material handling and
9 storage areas, dust and particulate generating activities, and a description of
10 significant spills and leaks, a list of all non-storm water discharges and their sources,
11 and a description of locations where soil erosion may occur (Section A(6)). The
12 SWPPP must include an assessment of potential pollutant sources at the Facility and
13 a description of the BMPs to be implemented at the Facility that will reduce or
14 prevent pollutants in storm water discharges and authorized non-storm water
15 discharges, including structural BMPs where non-structural BMPs are not effective
16 (Section A(7), (8)). The SWPPP must be evaluated to ensure effectiveness and must
17 be revised where necessary (Sections A(9), (10)).
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25 18. Section C(11)(d) of the General Permit's Standard Provisions requires
26 dischargers to report any noncompliance to the Regional Board. *See also* Section
27 E(6). Section A(9) of the General Permit requires an annual evaluation of storm
28

1 water controls including the preparation of an evaluation report and implementation
2 of any additional measures in the SWPPP to respond to the monitoring results and
3 other inspection activities.
4

5 19. The General Permit requires dischargers commencing industrial
6 activities before October 1, 1992, to develop and implement an adequate written
7 monitoring and reporting program no later than October 1, 1992. Existing facilities
8 covered under the General Permit must implement all necessary revisions to their
9 monitoring programs no later than August 1, 1997.
10
11

12 20. As part of their monitoring program, dischargers must identify all storm
13 water discharge locations that produce a significant storm water discharge, evaluate
14 the effectiveness of BMPs in reducing pollutant loading, and evaluate whether
15 pollution control measures set out in the SWPPP are adequate and properly
16 implemented. Dischargers must conduct visual observations of these discharge
17 locations for at least one storm per month during the wet season (October through
18 May) and record their findings in their Annual Report. Dischargers must also collect
19 and analyze storm water samples from at least two storms per year. Section B(5)(a)
20 of the General Permit requires that dischargers "shall collect storm water samples
21 during the first hour of discharge from (1) the first storm event of the wet season, and
22 (2) at least one other storm event in the wet season. All storm water discharge
23 locations shall be sampled." Section B(5)(c)(i) requires dischargers to sample and
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1 analyze during the wet season for basic parameters, such as pH, total suspended
2 solids, electrical conductance, total organic content or oil & grease, and certain
3 industry-specific parameters. Section B(5)(c)(ii) requires dischargers to sample for
4 toxic chemicals and other pollutants likely to be in the storm water discharged from
5 the facility. Section B(5)(c)(iii) requires discharges to sample for parameters
6 dependent on the standard industrial classification ("SIC") codes for activities at the
7 facility. Section B(7)(a) indicates that the visual observations and samples must
8 represent the "quality and quantity of the facility's storm water discharges from the
9 storm event." Section B(7)(c) requires that "if visual observation and sample
10 collection locations are difficult to observe or sample...facility operators shall
11 identify and collect samples from other locations that represent the quality and
12 quantity of the facility's storm water discharges from the storm event."
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18 21. Section B(14) of the General Permit requires dischargers to submit an
19 annual report by July 1 of each year to the executive officer of the relevant Regional
20 Board. The annual report must be signed and certified by an appropriate corporate
21 officer. Sections B(14), C(9), (10). Section A(9)(d) of the General Permit requires
22 the discharger to include in their annual report an evaluation of their storm water
23 controls, including certifying compliance with the General Permit. *See also* Sections
24 C(9), C(10) and B(14).
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28 22. The General Permit does not provide for any mixing zones by

1 dischargers. The General Permit does not provide for any dilution credits to be
2 applied by dischargers.

3 23. The Regional Board has established water quality standards for the Santa
4 Ana River Watershed in the "Water Quality Control Plan for the Santa Ana River
5 Basin (Region 8)," generally referred to as the Basin Plan.
6

7 24. The Basin Plan includes a narrative toxicity standard which states that
8 "[t]oxic substances shall not be discharged at levels that will bioaccumulate in
9 aquatic resources to levels which are harmful to human health."
10

11 25. The Basin Plan includes a narrative oil and grease standard which states
12 that "[w]aste discharges shall not result in deposition of oil, grease, wax, or other
13 material in concentrations which result in a visible film or in coating objects in the
14 water, or which cause a nuisance or adversely affect beneficial uses."
15

16 26. The Basin Plan provides that "waters shall not contain suspended or
17 settleable solids in amounts which cause a nuisance or adversely affect beneficial
18 uses..."
19

20 27. The Basin Plan provides that "[t]he pH of inland surface waters shall not
21 be raised above 8.5 or depressed below 6.5..."
22

23 28. The Basin Plan contains a narrative floatables standard which states that
24 "[w]aste discharges shall not contain floating materials, including solids, liquids,
25 foam or scum, which cause a nuisance or adversely affect beneficial uses."
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1 29. The Basin Plan contains a narrative color standard which states that
2 “[w]aste discharges shall not result in coloration of the receiving waters which causes
3 a nuisance or adversely affect beneficial uses. The natural color of fish, shellfish or
4 other inland surface water resources used for human consumption shall not be
5 impaired.”
6

7
8 30. The Basin Plan also sets out numeric water quality standards for Reach 3
9 of the Santa Ana River, and includes Site Specific Objective (“SSOs”) of 0.0017
10 mg/L for cadmium, 0.0182 mg/L for copper, and 0.0041 mg/L for lead. The SSO
11 values are expressed as a function of total hardness (mg/L) in the water body, and
12 correspond to a total hardness of 200 mg/L as indicated in the Basin Plan.
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14

15 31. The EPA has adopted the freshwater numeric water quality standards
16 (Criteria Maximum Concentrations – “CMCs”) of 0.0043 mg/L for cadmium, 0.013
17 mg/L for copper, 0.065 mg/L for lead, and 0.120 mg/L for zinc. California Toxics
18 Rule, 65 Fed.Reg. 31712 (May 18, 2000).
19

20
21 32. The 2008-2010 EPA 303(d) List of Water Quality Limited Segments
22 lists Reach 3 of the Santa Ana River – the water into which the Facility’s storm water
23 is discharged – as impaired for copper. See [http://www.waterboards.ca.gov/](http://www.waterboards.ca.gov/centralvalley/water_issues/tmdl/impaired_waters_list/2008_2010_usepa_303dlist/20082010_usepa_aprvd_303dlist.pdf)
24 [centralvalley/water_issues/tmdl/impaired_waters_list/2008_2010_usepa_303dlist/20](http://www.waterboards.ca.gov/centralvalley/water_issues/tmdl/impaired_waters_list/2008_2010_usepa_303dlist/20082010_usepa_aprvd_303dlist.pdf)
25 [082010_usepa_aprvd_303dlist.pdf](http://www.waterboards.ca.gov/centralvalley/water_issues/tmdl/impaired_waters_list/2008_2010_usepa_303dlist/20082010_usepa_aprvd_303dlist.pdf). In October 2011, EPA added additional waters to
26 the 303(d) list, including the addition of Reach 3 of the Santa Ana River as impaired
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28

1 for lead. See <http://www.epa.gov/region9/water/tmdl/303d-pdf/Final->
2 [DecisLtrEnclosResponsSumCA2008-10-303d.pdf](http://www.epa.gov/region9/water/tmdl/303d-pdf/Final-DecisLtrEnclosResponsSumCA2008-10-303d.pdf).

3 33. EPA has established Parameter Benchmark Values as guidelines for
4 determining whether a facility discharging industrial storm water has implemented
5 the requisite BAT and BCT. EPA has established Parameter Benchmark Values for
6 the following parameters, among others: pH – 6.0 - 9.0 standard units (“s.u.”); total
7 suspended solids (“TSS”) – 100 mg/L; oil and grease (“O&G”) – 15 mg/L; aluminum
8 – 0.75 mg/L; cadmium – 0.0159 mg/L; copper – 0.0156 mg/L; iron – 1.0 mg/L; lead –
9 0.0816 mg/L; manganese – 1.0 mg/L; and zinc – 0.13 mg/L. The benchmark values
10 for copper and zinc are also hardness dependent. The values here are based on a
11 hardness range of 100-125 mg/L CaCO₃, which is the default listing in the California
12 Toxics Rule.
13

14 34. Section 505(a)(1) and Section 505(f) of the Act provide for citizen
15 enforcement actions against any “person,” including individuals, corporations, or
16 partnerships, for violations of NPDES permit requirements. 33 U.S.C. §§1365(a)(1)
17 and (f), § 1362(5). An action for injunctive relief under the Act is authorized by 33
18 U.S.C. § 1365(a). Violators of the Act are also subject to an assessment of civil
19 penalties of up to \$37,500 per day per violation, pursuant to Sections 309(d) and 505
20 of the Act, 33 U.S.C. §§ 1319(d), 1365. *See also* 40 C.F.R. §§ 19.1 - 19.4.
21

22 ///

1 **V. STATEMENT OF FACTS**

2 35. Defendant Tamco operates an industrial steel mini-mill facility located at
3 12459 B Arrow Route in Rancho Cucamonga, California. On information and belief,
4 CCA EJ alleges that the Facility is engaged in the recycling of ferrous scrap metals
5 into concrete reinforcing bars ("rebar"). The Facility falls within SIC Code 3312.
6 The majority of the Facility is paved and used for manufacturing, processing, storing,
7 and transporting materials related to rebar production. On information and belief,
8 Plaintiff alleges that there are at least four large buildings located on the property.
9 Plaintiff is informed and believes, and thereupon alleges that manufacturing,
10 processing, and storage of rebar is conducted both inside and outside of these
11 buildings.

12 36. Defendant channels and collects storm water falling on the Facility
13 through a series of storm water drains that lead to at least three storm water outfalls.
14 The Facility's outfalls discharge to channels that flow into San Bernardino County's
15 municipal storm sewer system, which discharges into Day Creek, which flows into
16 Reach 3 of the Santa Ana River.

17 37. On information and belief, Plaintiff alleges that the industrial activities
18 at the site include the melting of ferrous scrap metals through the use of an electric
19 arc furnace as well as the manufacturing of rebar.

20 38. On information and belief, Plaintiff alleges that all storm water
21

1 discharges from the Facility contain storm water that is commingled with runoff from
2 areas at the Facility where industrial processes occur.

3 39. Significant activities at the site take place outside and are exposed to
4 rainfall. These activities include the production and storage of the numerous types of
5 materials and finished products handled by the Facility. Loading and delivery of
6 materials occurs outside. Trucks enter and exit the Facility directly from and to a
7 public road. Outdoor areas of the Facility are exposed to storm water and storm
8 flows due to the lack of overhead coverage, berms, and other storm water controls.
9

10 40. Industrial machinery, heavy equipment and vehicles, including trucks
11 and forklifts, are operated at the Facility in areas exposed to storm water flows.
12 Plaintiff is informed and believes, and thereupon alleges, that such machinery and
13 equipment leak contaminants such as oil, grease, diesel fuel, coolant, and hydraulic
14 fluids that are exposed to storm water flows, and that such machinery and equipment
15 track sediment and other contaminants throughout the Facility. Plaintiff is informed
16 and believes, and thereupon alleges that storm water flows easily over the surface of
17 the Facility, collecting suspended sediment, dirt, oils, grease, metals, and other
18 pollutants as it flows toward the storm water drains. Storm water and any pollutants
19 contained in that storm water entering the drains flows directly to the Facility's
20 outfalls which discharge to channels that flow into San Bernardino County's
21 municipal storm sewer system, which discharges into Day Creek, which flows into
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1 Reach 3 of the Santa Ana River.

2 41. The management practices at the Facility are wholly inadequate to
3 prevent the sources of contamination described above from causing the discharge of
4 pollutants to waters of the United States. The Facility lacks sufficient structural
5 controls such as grading, berming, roofing, containment, or drainage structures to
6 prevent rainfall and storm water flows from coming into contact with these and other
7 exposed sources of contaminants. The Facility lacks sufficient structural controls to
8 prevent the discharge of water once contaminated. The Facility lacks adequate storm
9 water pollution treatment technologies to treat storm water once contaminated.
10

11 42. Since at least December 17, 2009, Defendant has taken samples or
12 arranged for samples to be taken of storm water discharges at the Facility. The
13 sample results were reported in the Facility's annual reports submitted to the
14 Regional Board. Defendant Tamco certified each of those annual reports pursuant to
15 Sections A and C of the General Permit.
16

17 43. Since at least December 17, 2009, the Facility has detected pH, TSS,
18 lead, zinc, iron, aluminum, copper and manganese in storm water discharged from the
19 Facility. Levels of these pollutants detected in the Facility's storm water have been in
20 excess of and/or outside of EPA's numeric parameter benchmark values. Levels of
21 these pollutants detected in the Facility's storm water have been in excess of and/or
22 outside of the parameters for water quality standards established in the Basin Plan, as
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well in violation of narrative standards established in the Basin Plan.

44. The following discharges of pollutants from the Facility have contained concentrations of pollutants in excess of numeric water quality standards established in the Basin Plan and the California Toxics Rule as well as narrative standards in the Basin Plan. They have thus violated Discharge Prohibitions A(1) and A(2) and Receiving Water Limitations C(1) and C(2) and are evidence of ongoing violations of Effluent Limitation B(3) of the General Industrial Storm Water Permit.

Date	Parameter	Observed Concentration / Conditions	Basin Plan Water Quality Standard / California Toxics Rule	Outfall (as identified by the Facility)
2/27/2014	pH	8.53 s.u.	6.5 – 8.5 s.u.	Outfall #3
12/18/2012	pH	8.88 s.u.	6.5 – 8.5 s.u.	South East Box Outfall #1
12/18/2012	pH	8.76 s.u.	6.5 – 8.5 s.u.	Channel Weir Outfall #2
12/18/2012	pH	9.39 s.u.	6.5 – 8.5 s.u.	West Trench Outfall #3
10/11/2012	pH	9.91 s.u.	6.5 – 8.5 s.u.	South East Box Outfall #1
10/11/2012	pH	9.82 s.u.	6.5 – 8.5 s.u.	Channel Weir Outfall #2
10/11/2012	pH	9.96 s.u.	6.5 – 8.5 s.u.	West Trench Outfall #3
12/12/2011	pH	9.19 s.u.	6.5 – 8.5 s.u.	East Outfall #1
12/17/2010	pH	8.55 s.u.	6.5 – 8.5 s.u.	Outfall #3

1	12/17/2010	pH	8.71 s.u.	6.5 – 8.5 s.u.	Arrow Rte
2	3/21/2011	pH	9.37 s.u.	6.5 – 8.5 s.u.	Ameron East
3	1/18/2010	pH	8.57 s.u.	6.5 – 8.5 s.u.	East Outfall #1
4	1/18/2010	pH	8.78 s.u.	6.5 – 8.5 s.u.	South-East Outfall
5					#2
6	1/18/2010	pH	8.76 s.u.	6.5 – 8.5 s.u.	Pond Outfall #3
7	12/7/2009	pH	8.65 s.u.	6.5 – 8.5 s.u.	East Outfall #1
8	12/18/2012	Cadmium	0.012 mg/L	0.0017 mg/L (SSO) /	South East Box
9				0.0043 mg/L (CMC)	Outfall #1
10	10/11/2012	Cadmium	0.011 mg/L	0.0017 mg/L (SSO) /	Channel Weir
11				0.0043 mg/L (CMC)	Outfall #2
12	2/27/2014	Copper	0.077 mg/L	0.0182 mg/L (SSO) /	Outfall #1
13				0.013 mg/L (CMC)	
14	2/27/2014	Copper	0.122 mg/L	0.0182 mg/L (SSO) /	Outfall #2
15				0.013 mg/L (CMC)	
16	2/27/2014	Copper	0.045 mg/L	0.0182 mg/L (SSO) /	Outfall #3
17				0.013 mg/L (CMC)	
18	2/6/2014	Copper	0.096 mg/L	0.0182 mg/L (SSO) /	Outfall #1
19				0.013 mg/L (CMC)	
20	12/19/2013	Copper	0.113 mg/L	0.0182 mg/L (SSO) /	Outfall #1
21				0.013 mg/L (CMC)	
22	11/21/2013	Copper	0.133 mg/L	0.0182 mg/L (SSO) /	Outfall #1
23				0.013 mg/L (CMC)	
24	11/21/2013	Copper	0.071 mg/L	0.0182 mg/L (SSO) /	Outfall #2
25				0.013 mg/L (CMC)	
26	12/18/2012	Copper	0.563 mg/L	0.0182 mg/L (SSO) /	South East Box
27				0.013 mg/L (CMC)	Outfall #1
28					

1	12/18/2012	Copper	0.061 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	Channel Weir Outfall #2
2					
3	12/18/2012	Copper	0.129 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	West Trench Outfall #3
4					
5	10/11/2012	Copper	0.233 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	South East Box Outfall #1
6					
7	10/11/2012	Copper	0.296 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	Channel Weir Outfall #2
8					
9	10/11/2012	Copper	0.146 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	West Trench Outfall #3
10					
11	12/12/2011	Copper	0.359 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	East Outfall #1
12					
13	12/12/2011	Copper	0.068 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	South-East Outfall #2
14					
15	12/12/2011	Copper	0.15 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	West Outfall #3
16					
17	10/5/2011	Copper	0.45 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	East Outfall #1
18					
19	10/5/2011	Copper	0.442 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	South-East Outfall #2
20					
21	10/5/2011	Copper	0.225 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	West Outfall #3
22					
23	10/6/2010	Copper	0.214 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	Outfall #1
24					
25	12/17/2010	Copper	0.054 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	Outfall #1
26					
27	12/17/2010	Copper	0.034 mg/L	0.0182 mg/L (SSO) /	Outfall #2
28					

			0.013 mg/L (CMC)	
12/17/2010	Copper	0.091 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	Ameron East
12/17/2010	Copper	0.074 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	Outfall #3
12/17/2010	Copper	0.102 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	Arrow Rte
3/21/2011	Copper	0.076 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	Outfall #1
3/21/2011	Copper	0.02 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	Outfall #2
3/21/2011	Copper	0.036 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	Outfall #3
3/21/2011	Copper	0.038 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	Arrow Rte
1/18/2010	Copper	0.117 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	East Outfall #1
1/18/2010	Copper	0.198 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	South-East Outfall #2
1/18/2010	Copper	0.105 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	Pond Outfall #3
12/7/2009	Copper	0.136 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	East Outfall #1
12/7/2009	Copper	0.09 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	South-East Outfall #2
2/27/2014	Lead	0.049 mg/L	0.0041 mg/L (SSO)	Outfall #1
2/27/2014	Lead	0.07 mg/L	0.0041 mg/L (SSO) /	Outfall #2

			0.065 mg/L (CMC)	
2/27/2014	Lead	0.032 mg/L	0.0041 mg/L (SSO)	Outfall #3
2/6/2014	Lead	0.027 mg/L	0.0041 mg/L (SSO)	Outfall #1
12/19/2013	Lead	0.037 mg/L	0.0041 mg/L (SSO)	Outfall #1
11/21/2013	Lead	0.096 mg/L	0.0041 mg/L (SSO) / 0.065 mg/L (CMC)	Outfall #1
11/21/2013	Lead	0.031 mg/L	0.0041 mg/L (SSO)	Outfall #2
12/18/2012	Lead	0.382 mg/L	0.0041 mg/L (SSO) / 0.065 mg/L (CMC)	South East Box Outfall #1
12/18/2012	Lead	0.248 mg/L	0.0041 mg/L (SSO) / 0.065 mg/L (CMC)	West Trench Outfall #3
10/11/2012	Lead	0.266 mg/L	0.0041 mg/L (SSO) / 0.065 mg/L (CMC)	South East Box Outfall #1
10/11/2012	Lead	0.314 mg/L	0.0041 mg/L (SSO) / 0.065 mg/L (CMC)	Channel Weir Outfall #2
10/11/2012	Lead	0.195 mg/L	0.0041 mg/L (SSO) / 0.065 mg/L (CMC)	West Trench Outfall #3
12/12/2011	Lead	0.27 mg/L	0.0041 mg/L (SSO) / 0.065 mg/L (CMC)	East Outfall #1
12/12/2011	Lead	0.023 mg/L	0.0041 mg/L (SSO)	South-East Outfall #2
12/12/2011	Lead	0.154 mg/L	0.0041 mg/L (SSO) / 0.065 mg/L (CMC)	West Outfall #3
10/5/2011	Lead	0.33 mg/L	0.0041 mg/L (SSO) / 0.065 mg/L (CMC)	East Outfall #1
10/5/2011	Lead	0.36 mg/L	0.0041 mg/L (SSO) / 0.065 mg/L (CMC)	South-East Outfall #2

1	10/5/2011	Lead	0.277 mg/L	0.0041 mg/L (SSO) / 0.065 mg/L (CMC)	West Outfall #3
2					
3	10/6/2010	Lead	0.087 mg/L	0.0041 mg/L (SSO) / 0.065 mg/L (CMC)	Outfall #1
4					
5	12/17/2010	Lead	0.036 mg/L	0.0041 mg/L (SSO)	Outfall #1
6	12/17/2010	Lead	0.019 mg/L	0.0041 mg/L (SSO)	Outfall #2
7	12/17/2010	Lead	0.067 mg/L	0.0041 mg/L (SSO) / 0.065 mg/L (CMC)	Ameron East
8					
9	12/17/2010	Lead	0.083 mg/L	0.0041 mg/L (SSO) / 0.065 mg/L (CMC)	Outfall #3
10					
11	12/17/2010	Lead	0.079 mg/L	0.0041 mg/L (SSO) / 0.065 mg/L (CMC)	Arrow Rte
12					
13	3/21/2011	Lead	0.07 mg/L	0.0041 mg/L (SSO) / 0.065 mg/L (CMC)	Outfall #1
14					
15	3/21/2011	Lead	0.019 mg/L	0.0041 mg/L (SSO)	Outfall #2
16	3/21/2011	Lead	0.052 mg/L	0.0041 mg/L (SSO)	Outfall #3
17	3/21/2011	Lead	0.03 mg/L	0.0041 mg/L (SSO)	Arrow Rte
18	1/18/2010	Lead	0.095 mg/L	0.0041 mg/L (SSO) / 0.065 mg/L (CMC)	East Outfall #1
19					
20	1/18/2010	Lead	0.154 mg/L	0.0041 mg/L (SSO) / 0.065 mg/L (CMC)	South-East Outfall #2
21					
22	1/18/2010	Lead	0.155 mg/L	0.0041 mg/L (SSO) / 0.065 mg/L (CMC)	Pond Outfall #3
23					
24	12/7/2009	Lead	0.092 mg/L	0.0041 mg/L (SSO) / 0.065 mg/L (CMC)	East Outfall #1
25					
26	12/7/2009	Lead	0.01 mg/L	0.0041 mg/L (SSO)	South-East Outfall #2
27					
28					

1	2/27/2014	Zinc	0.81 mg/L	0.12 mg/L (CMC)	Outfall #1
2	2/27/2014	Zinc	0.852 mg/L	0.12 mg/L (CMC)	Outfall #2
3	2/27/2014	Zinc	0.232 mg/L	0.12 mg/L (CMC)	Outfall #3
4	2/6/2014	Zinc	1.42 mg/L	0.12 mg/L (CMC)	Outfall #1
5	12/19/2013	Zinc	1.37 mg/L	0.12 mg/L (CMC)	Outfall #1
6	11/21/2013	Zinc	1.23 mg/L	0.12 mg/L (CMC)	Outfall #1
7	11/21/2013	Zinc	0.226 mg/L	0.12 mg/L (CMC)	Outfall #2
8	12/18/2012	Zinc	3.32 mg/L	0.12 mg/L (CMC)	South East Box Outfall #1
9					
10	12/18/2012	Zinc	0.348 mg/L	0.12 mg/L (CMC)	Channel Weir Outfall #2
11					
12	12/18/2012	Zinc	1.22 mg/L	0.12 mg/L (CMC)	West Trench Outfall #3
13					
14	10/11/2012	Zinc	2.25 mg/L	0.12 mg/L (CMC)	South East Box Outfall #1
15					
16	10/11/2012	Zinc	3.17 mg/L	0.12 mg/L (CMC)	Channel Weir Outfall #2
17					
18	10/11/2012	Zinc	1.12 mg/L	0.12 mg/L (CMC)	West Trench Outfall #3
19					
20	12/12/2011	Zinc	2.28 mg/L	0.12 mg/L (CMC)	East Outfall #1
21	12/12/2011	Zinc	0.317 mg/L	0.12 mg/L (CMC)	South-East Outfall #2
22					
23	12/12/2011	Zinc	1.08 mg/L	0.12 mg/L (CMC)	West Outfall #3
24	10/5/2011	Zinc	2.48 mg/L	0.12 mg/L (CMC)	East Outfall #1
25	10/5/2011	Zinc	2.76 mg/L	0.12 mg/L (CMC)	South-East Outfall #2
26					
27	10/5/2011	Zinc	2.35 mg/L	0.12 mg/L (CMC)	West Outfall #3
28					

1	10/6/2010	Zinc	1.95 mg/L	0.12 mg/L (CMC)	Outfall #1
2	12/17/2010	Zinc	0.406 mg/L	0.12 mg/L (CMC)	Outfall #1
3	12/17/2010	Zinc	0.442 mg/L	0.12 mg/L (CMC)	Outfall #2
4	12/17/2010	Zinc	0.537 mg/L	0.12 mg/L (CMC)	Ameron East
5	12/17/2010	Zinc	0.835 mg/L	0.12 mg/L (CMC)	Arrow Rte
6	12/17/2010	Zinc	0.612 mg/L	0.12 mg/L (CMC)	Outfall #1
7	3/21/2011	Zinc	0.859 mg/L	0.12 mg/L (CMC)	Outfall #2
8	3/21/2011	Zinc	0.422 mg/L	0.12 mg/L (CMC)	Outfall #3
9	3/21/2011	Zinc	0.626 mg/L	0.12 mg/L (CMC)	Arrow Rte
10	3/21/2011	Zinc	0.374 mg/L	0.12 mg/L (CMC)	Ameron East
11	1/18/2010	Zinc	0.814 mg/L	0.12 mg/L (CMC)	East Outfall #1
12	1/18/2010	Zinc	1.08 mg/L	0.12 mg/L (CMC)	South-East Outfall
13					#2
14	1/18/2010	Zinc	1.62 mg/L	0.12 mg/L (CMC)	Pond Outfall #3
15	12/7/2009	Zinc	1.08 mg/L	0.12 mg/L (CMC)	East Outfall #1
16	12/7/2009	Zinc	0.147 mg/L	0.12 mg/L (CMC)	South-East Outfall
17					#2
18	12/18/2012	Narrative	Turbid/Cloudy	Basin Plan at 4-16	South East Box
19					Outfall #1
20	10/11/2012	Narrative	Turbid/Cloudy	Basin Plan at 4-16	South East Box
21					Outfall #1
22	12/12/2011	Narrative	Cloudy/Oil	Basin Plan at 4-15;	East Outfall #1
23			Sheen	Basin Plan at 4-16	
24	10/5/2011	Narrative	Cloudy/Oil	Basin Plan at 4-15;	East Outfall #1
25			Sheen	Basin Plan at 4-16	
26	12/17/2010	Narrative	Oil Sheen	Basin Plan at 4-15	Outfall #1
27	12/7/2009	Narrative	Debris	Basin Plan at 4-11	South-East Outfall

				#2
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45. The level of pH in storm water detected by the Facility has been outside the range of the benchmark value for pH of 6.0 – 9.0 standard units (“s.u.”) established by EPA. The level of pH in storm water detected by the Facility has been outside the range of 6.5 – 8.5 s.u. established by the Basin Plan. Defendant measured storm water discharges with a pH level in excess of 8.5 s.u. on the following dates: February 27, 2014; December 18, 2012; October 11, 2012; December 12, 2011; March 21, 2011; December 17, 2010; January 18, 2010; and December 17, 2009. In addition, the Facility measured pH levels in excess of 9.0 s.u. on December 18, 2012; October 11, 2012; December 12, 2011; and March 21, 2011.

46. The level of TSS in storm water detected by the Facility has exceeded the benchmark value for TSS of 100 mg/L established by EPA. For example, on December 12, 2011, the level of TSS measured by Defendant at the “East Outfall #1” was 3,210 mg/L. That level of TSS is over 32 times the benchmark value for TSS. Tamco also has measured levels of TSS in storm water discharged from the Facility in excess of 100 mg/L on February 27, 2014; February 6, 2014; November 21, 2013; December 18, 2012; October 11, 2012; October 5, 2011; March 21, 2011; December 17, 2010; October 6, 2010; January 18, 2010; and December 17, 2009.

47. The levels of lead in storm water detected by the Facility have exceeded

1 the SSO for lead of 0.0041 mg/L as well as the freshwater numeric water quality
2 standard established by the EPA of 0.065 mg/L for lead (CMC). For example, on
3 December 18, 2012, the level of lead measured from one of the Facility's storm water
4 outfalls was 0.382 mg/L. That level of lead is over 93 times the SSO for lead and
5 almost 6 times the CMC for lead.
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8 48. The level of lead in storm water detected by the Facility has exceeded
9 the benchmark value for lead of 0.0816 mg/L established by EPA. For example, on
10 December 18, 2012, the level of lead measured by Defendants at one of the Facility's
11 outfalls was 0.382 mg/L. That level of lead is almost 5 times the benchmark value for
12 lead. The Facility also has measured levels of lead in storm water discharged from
13 the Facility in excess of 0.0816 mg/L on the following dates: November 21, 2013;
14 October 11, 2012; December 12, 2011; October 5, 2011; December 17, 2010;
15 October 6, 2010; January 18, 2010; and December 17, 2009.
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19 49. The levels of cadmium in storm water detected by the Facility have
20 exceeded the SSO for cadmium of 0.0017 mg/L as well as the freshwater numeric
21 water quality standard established by the EPA of 0.0043 mg/L for cadmium (CMC).
22 For example, on December 18, 2012, the level of cadmium measured from one of the
23 Facility's storm water outfalls was 0.012 mg/L. That level of cadmium is over 7
24 times the SSO for cadmium and almost 3 times the CMC for cadmium.
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28 50. The levels of zinc in storm water detected by the Facility have exceeded

1 the freshwater numeric water quality standard established by the EPA of 0.12 mg/L
2 for zinc (CMC). For example, on December 18, 2012, the level of zinc measured
3 from one of the Facility's storm water outfalls was 3.32 mg/L. That level of zinc is
4 almost 28 times the CMC for zinc.
5

6 51. The level of zinc in storm water detected by the Facility has exceeded
7 the benchmark value for zinc of 0.13 mg/L established by EPA. For example, on
8 December 18, 2012, the level of zinc measured by Defendants at one of the Facility's
9 outfalls was 3.32 mg/L. That level of zinc is over 25 times the benchmark value for
10 zinc. The Facility also has measured levels of zinc in storm water discharged from
11 the Facility in excess of 0.13 mg/L in every other storm water sample it has taken for
12 the past five years, including February 27, 2014; February 6, 2014; December 19,
13 2013; November 21, 2013; October 11, 2012; December 12, 2011; October 5, 2011;
14 March 21, 2011; December 17, 2010; October 6, 2010; January 18, 2010; and
15 December 17, 2009.
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20 52. The levels of copper in storm water detected by the Facility have
21 exceeded the SSO for copper of 0.0182 mg/L as well as the freshwater numeric water
22 quality standard established by the EPA of 0.013 mg/L for copper (CMC). For
23 example, on December 18, 2012, the level of copper measured from one of the
24 Facility's storm water outfalls was 0.563 mg/L. That level of copper is almost 31
25 times the SSO for copper and over 43 times the CMC for copper.
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1 53. The level of copper in storm water detected by the Facility has exceeded
2 the benchmark value for copper of 0.0156 mg/L established by EPA. For example,
3 on December 18, 2012, the level of copper measured by Defendants at one of the
4 Facility's outfalls was 0.563 mg/L. That level of copper is over 36 times the
5 benchmark value for copper. The Facility also has measured levels of copper in
6 storm water discharged from the Facility in excess of 0.0156 mg/L in every other
7 storm water sample it has taken for the past five years, including February 27, 2014;
8 February 6, 2014; December 19, 2013; November 21, 2013; October 11, 2012;
9 December 12, 2011; October 5, 2011; March 21, 2011; December 17, 2010; October
10 6, 2010; January 18, 2010; and December 17, 2009.
11

12 54. The level of aluminum in storm water detected by the Facility has
13 exceeded the benchmark value for aluminum of 0.75 mg/L established by EPA. For
14 example, on December 18, 2012, the level of aluminum measured by Defendants at
15 one of the Facility's outfalls was 21.6 mg/L. That level of aluminum is almost 29
16 times the benchmark value for aluminum. The Facility also has measured levels of
17 aluminum in storm water discharged from the Facility in excess of 0.75 mg/L in
18 nearly every other storm water sample it has taken for the past five years, including
19 February 27, 2014; February 6, 2014; December 19, 2013; November 21, 2013;
20 October 11, 2012; December 12, 2011; October 5, 2011; March 21, 2011; December
21 17, 2010; October 6, 2010; January 18, 2010; and December 17, 2009.
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1 55. The level of iron in storm water detected by the Facility has exceeded the
2 benchmark value for iron of 1.0 mg/L established by EPA. For example, on
3 December 18, 2012, the level of iron measured by Defendants at one of the Facility's
4 outfalls was 10.6 mg/L. That level of iron is over 10 times the benchmark value for
5 iron. The Facility also has measured levels of iron in storm water discharged from
6 the Facility in excess of 1.0 mg/L in nearly every other storm water sample it has
7 taken for the past five years, including February 27, 2014; February 6, 2014;
8 December 19, 2013; November 21, 2013; October 11, 2012; December 12, 2011;
9 October 5, 2011; March 21, 2011; December 17, 2010; October 6, 2010; January 18,
10 2010; and December 17, 2009.

11 56. The level of manganese in storm water detected by the Facility has
12 exceeded the benchmark value for manganese of 1.0 mg/L established by EPA. For
13 example, on December 18, 2012, the level of manganese measured by Defendants at
14 one of the Facility's outfalls was 5.69 mg/L. That level of manganese is over 5 times
15 the benchmark value for manganese. The Facility also has measured levels of
16 manganese in storm water discharged from the Facility in excess of 1.0 mg/L on the
17 following dates: October 11, 2012; December 12, 2011; October 5, 2011; March 21,
18 2011; December 17, 2010; October 6, 2010; January 18, 2010; and December 17,
19 2009.

20 57. On information and belief, Plaintiff alleges that since at least October
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1 19, 2009, Defendant has failed to implement BAT and BCT at the Facility for its
2 discharges of pH, TSS, aluminum, copper, iron, lead, manganese, zinc, cadmium, and
3 other un-monitored pollutants. Section B(3) of the General Permit requires that
4 Defendant implement BAT for toxic and nonconventional pollutants and BCT for
5 conventional pollutants by no later than October 1, 1992. As of the date of this
6 Complaint, Defendant has failed to implement BAT and BCT.
7

8
9 58. On information and belief, Plaintiff alleges that since at least October 19,
10 2009, Defendant has failed to implement an adequate Storm Water Pollution
11 Prevention Plan for the Facility. Plaintiff is informed and believes, and thereupon
12 alleges, that the SWPPP prepared for the Facility does not set forth site-specific best
13 management practices for the Facility that are consistent with BAT or BCT for the
14 Facility. Plaintiff is informed and believes, and thereupon alleges, that the SWPPP
15 prepared for the Facility does not include an adequate assessment of potential
16 pollutant sources, structural pollutant control measures employed by the Defendant, a
17 list of actual and potential areas of pollutant contact, or an adequate description of
18 best management practices to be implemented at the Facility to reduce pollutant
19 discharges. According to information available to CCAEJ, Defendant's SWPPP has
20 not been evaluated to ensure its effectiveness and revised where necessary to further
21 reduce pollutant discharges. Plaintiff is informed and believes, and thereupon alleges,
22 that the SWPPP does not include each of the mandatory elements required by Section
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1 A of the General Permit.

2 59. Information available to CCAEJ indicates that as a result of these
3 practices, storm water containing excessive pollutants is being discharged during rain
4 events from the Facility directly to channels that flow into San Bernardino County's
5 municipal storm sewer system, which discharges into Day Creek, which flows into
6 Reach 3 of the Santa Ana River.
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9 60. Plaintiff is informed and believes, and thereupon alleges, that Defendant
10 has failed and continues to fail to alter the Facility's SWPPP and site-specific BMPs
11 consistent with Section A(9) of the General Permit.
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13 61. Plaintiff is informed and believes that Defendant failed to submit to the
14 Regional Board a true and complete annual report certifying compliance with the
15 General Permit since at least July 1, 2010. Pursuant to Sections A(9)(d), B(14), and
16 C(9), (10) of the General Permit, Defendant must submit an annual report, that is
17 signed and certified by the appropriate corporate officer, outlining the Facility's
18 storm water controls and certifying compliance with the General Permit. Plaintiff is
19 informed and believes, and thereupon alleges, that Defendant has signed incomplete
20 annual reports that purported to comply with the General Permit when there was
21 significant noncompliance at the Facility.
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24 62. Information available to Plaintiff indicates that Defendant has not
25 fulfilled the requirements set forth in the General Permit for discharges from the
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1 Facility due to the continued discharge of contaminated storm water. Plaintiff is
2 informed and believes, and thereupon alleges, that all of the violations alleged in this
3 Complaint are ongoing and continuing.
4

5 **VI. CLAIMS FOR RELIEF**

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7 **FIRST CAUSE OF ACTION**
8 **Failure to Implement the Best Available and**
9 **Best Conventional Treatment Technologies**
10 **(Violations of Permit Conditions and the Act, 33 U.S.C. §§ 1311, 1342)**

11 63. Plaintiff re-alleges and incorporates all of the preceding paragraphs as if
12 fully set forth herein.

13 64. The General Permit's SWPPP requirements and Effluent Limitation B(3)
14 require dischargers to reduce or prevent pollutants in their storm water discharges
15 through implementation of BAT for toxic and nonconventional pollutants and BCT
16 for conventional pollutants. Defendant has failed to implement BAT and BCT at the
17 Facility for its discharges of pH, TSS, aluminum, copper, iron, lead, manganese, zinc,
18 cadmium, and other un-monitored pollutants in violation of Effluent Limitation B(3)
19 of the General Permit.
20

21 65. Each day since October 19, 2009, that Defendant has failed to develop
22 and implement BAT and BCT in violation of the General Permit is a separate and
23 distinct violation of the General Permit and Section 301(a) of the Act, 33 U.S.C. §
24 1311(a).
25

26 66. Defendant has been in violation of the BAT/BCT requirements every day
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28

1 since October 19, 2009. Defendant continues to be in violation of the BAT/BCT
2 requirements each day that it fails to develop and fully implement BAT/BCT at the
3 Facility.
4

5 **SECOND CAUSE OF ACTION**
6 **Discharges of Contaminated Storm Water**
7 **in Violation of Permit Conditions and the Act**
8 **(Violations of 33 U.S.C. §§ 1311, 1342)**

9 67. Plaintiff re-alleges and incorporates all of the preceding paragraphs as if
10 fully set forth herein.

11 68. Discharge Prohibition A(2) of the General Permit requires that storm
12 water discharges and authorized non-storm water discharges shall not cause or threaten
13 to cause pollution, contamination, or nuisance. Receiving Water Limitations C(1) and
14 C(2) of the General Permit require that storm water discharges and authorized non-
15 storm water discharges shall not adversely impact human health or the environment,
16 and shall not cause or contribute to a violation of any water quality standards contained
17 in a Statewide Water Quality Control Plan or the applicable Regional Board's Basin
18 Plan.
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22 69. Plaintiff is informed and believes, and thereupon alleges, that since at least
23 October 19, 2009, Defendant has been discharging polluted storm water from the
24 Facility in excess of applicable water quality standards in violation of the Discharge
25 Prohibition A(2) of the General Permit.
26

27 70. During every rain event, storm water flows freely over exposed materials,
28

1 waste products, and other accumulated pollutants at the Facility, becoming
2 contaminated with turbidity, sediment, oil sheens, cadmium, copper, lead, zinc, and
3 other un-monitored pollutants at levels above or, in the case of pH, outside of
4 applicable water quality standards. The storm water then flows untreated from the
5 Facility into channels that flow into San Bernardino County's municipal storm sewer
6 system, which discharges into Day Creek, which flows into Reach 3 of the Santa Ana
7 River.
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9

10 71. Plaintiff is informed and believes, and thereupon alleges, that these
11 discharges of contaminated storm water are causing or contributing to the violation of
12 the applicable water quality standards in a Statewide Water Quality Control Plan and/or
13 the applicable Regional Board's Basin Plan in violation of Receiving Water Limitation
14 C(2) of the General Permit.
15
16

17 72. Plaintiff is informed and believes, and thereupon alleges, that these
18 discharges of contaminated storm water are adversely affecting human health and the
19 environment in violation of Receiving Water Limitation C(1) of the General Permit.
20
21

22 73. Every day since at least October 19, 2009, that Defendant has discharged
23 and continues to discharge polluted storm water from the Facility in violation of the
24 General Permit is a separate and distinct violation of Section 301(a) of the Act, 33
25 U.S.C. § 1311(a). These violations are ongoing and continuous.
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THIRD CAUSE OF ACTION
Failure to Prepare, Implement, Review, and Update
an Adequate Storm Water Pollution Prevention Plan
(Violations of Permit Conditions and the Act, 33 U.S.C. §§ 1311, 1342)

74. Plaintiff re-alleges and incorporates all of the preceding paragraphs as if fully set forth herein.

75. Section A and Provision E of the General Permit requires dischargers of storm water associated with industrial activity to develop and implement an adequate SWPPP no later than October 1, 1992.

76. Defendant has failed to develop and implement an adequate SWPPP for the Facility. Defendant's ongoing failure to develop and implement an adequate SWPPP for the Facility is evidenced by, *inter alia*, Defendant's outdoor production of various materials without appropriate best management practices; the continued exposure of significant quantities of various materials to storm water flows; the failure to either treat storm water prior to discharge or to implement effective containment practices; and the continued discharge of storm water pollutants from the Facility at levels in excess of EPA benchmark values and water quality standards.

77. Defendant has failed to update the Facility's SWPPP in response to the analytical results of the Facility's storm water monitoring.

78. Each day since October 19, 2009, that Defendant has failed to develop, implement and update an adequate SWPPP for the Facility is a separate and distinct violation of the General Permit and Section 301(a) of the Act, 33 U.S.C. § 1311(a).

79. Defendant has been in violation of the SWPPP requirements every day since October 19, 2009. Defendant continues to be in violation of the SWPPP requirements each day that it fails to develop and fully implement an adequate SWPPP for the Facility.

FOURTH CAUSE OF ACTION
False Certification of Compliance in Annual Report
(Violations of Permit Conditions and the Act, 33 U.S.C. §§ 1311, 1342)

80. Plaintiff re-alleges and incorporates all of the preceding paragraphs as if fully set forth herein.

81. Defendant has falsely certified compliance with the General Permit in each of the annual reports submitted to the Regional Board since at least July 1, 2010.

82. Each day since at least July 1, 2010, that Defendant has falsely certified compliance with the General Permit is a separate and distinct violation of the General Permit and Section 301(a) of the Act, 33 U.S.C. § 1311(a). Defendant continues to be in violation of the General Permit's certification requirement each day that it maintains its false certification of its compliance with the General Permit.

VII. RELIEF REQUESTED

Wherefore, Plaintiff respectfully requests that this Court grant the following relief:

a. Declare Defendant to have violated and to be in violation of the Act as alleged herein;

1 b. Enjoin Defendant from discharging polluted storm water from the
2 Facility unless authorized by the Permit;

3 c. Enjoin Defendant from further violating the substantive and procedural
4 requirements of the Permit;

5 d. Order Defendant to immediately implement storm water pollution
6 control and treatment technologies and measures that are equivalent to BAT or BCT
7 and prevent pollutants in the Facility's storm water from contributing to violations of
8 any water quality standards;

9 e. Order Defendant to comply with the Permit's monitoring and reporting
10 requirements, including ordering supplemental monitoring to compensate for past
11 monitoring violations;

12 f. Order Defendant to prepare a SWPPP consistent with the Permit's
13 requirements and implement procedures to regularly review and update the SWPPP;

14 g. Order Defendant to provide Plaintiff with reports documenting the
15 quality and quantity of their discharges to waters of the United States and their efforts
16 to comply with the Act and the Court's orders;

17 h. Order Defendant to pay civil penalties of \$37,500 per day per violation
18 for each violation of the Act pursuant to Sections 309(d) and 505(a) of the Act, 33
19 U.S.C. §§ 1319(d), 1365(a) and 40 C.F.R. §§ 19.1 - 19.4;

20 i. Order Defendant to take appropriate actions to restore the quality of
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1 waters impaired or adversely affected by their activities;

2 j. Award Plaintiff's costs (including reasonable investigative, attorney,
3 witness, compliance oversight, and consultant fees) as authorized by the Act, 33 U.S.C.
4 § 1365(d); and,
5

6 k. Award any such other and further relief as this Court may deem
7 appropriate.
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9

10 Dated: December 18, 2014

Respectfully submitted,
LOZEAU DRURY LLP

13 By: /s/ Douglas J. Chermak
14 Douglas J. Chermak
15 Attorneys for Plaintiff
16 CENTER FOR COMMUNITY ACTION AND
17 ENVIRONMENTAL JUSTICE
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**VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

October 8, 2014

James Crompton, General Manager
Giannina Espinoza, Environmental Specialist
Tamco
12459 B Arrow Route
Rancho Cucamonga, CA 91739

**Re: Notice of Violations and Intent to File Suit Under the Federal Water
Pollution Control Act**

Dear Mr. Crompton and Ms. Espinoza:

I am writing on behalf of the Center for Community Action and Environmental Justice ("CCA EJ") in regard to violations of the Clean Water Act ("Act") that CCA EJ believes are occurring at Tamco's industrial facility, located at 12459 B Arrow Route in Rancho Cucamonga, California ("Facility"). CCA EJ is a non-profit public benefit corporation dedicated to working with communities to advocate for environmental justice and pollution prevention. CCA EJ has members living in the community adjacent to the Facility and the Santa Ana River Watershed. CCA EJ and its members are deeply concerned with protecting the environment in and around their communities, including the Santa Ana River Watershed. This letter is being sent to you as the responsible owners, officers, or operators of the Facility (all recipients are hereinafter collectively referred to as "Tamco").

This letter addresses Tamco's unlawful discharge of pollutants from the Facility through Day Creek into the Santa Ana River. The Facility is discharging storm water pursuant to National Pollutant Discharge Elimination System ("NPDES") Permit No. CA S000001, State Water Resources Control Board ("State Board") Order No. 92-12-DWQ as amended by Order No. 97-03-DWQ (hereinafter "General Permit").¹ The WDID identification number for the

¹ On April 1, 2014, the State Board reissued the General Permit, continuing its mandate that industrial facilities implement the best available technology economically achievable ("BAT") and best conventional pollutant control technology ("BCT") and, in addition, establishing numeric action levels mandating additional pollution control efforts. State Board Order 2014-

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Facility listed on documents submitted to the Santa Ana Regional Water Quality Control Board ("Regional Board") is 8 361002257. The Facility is engaged in ongoing violations of the substantive and procedural requirements of the General Permit.

Section 505(b) of the Clean Water Act requires a citizen to give notice of intent to file suit sixty (60) days prior to the initiation of a civil action under Section 505(a) of the Act (33 U.S.C. § 1365(a)). Notice must be given to the alleged violator, the U.S. Environmental Protection Agency ("EPA") and the State in which the violations occur.

As required by the Clean Water Act, this Notice of Violation and Intent to File Suit provides notice of the violations that have occurred, and continue to occur, at the Facility. Consequently, Tamco is hereby placed on formal notice by CCAEJ that, after the expiration of sixty days from the date of this Notice of Violations and Intent to Sue, CCAEJ intends to file suit in federal court against Tamco under Section 505(a) of the Clean Water Act (33 U.S.C. § 1365(a)), for violations of the Clean Water Act and the General Permit. These violations are described more extensively below.

I. Background.

On March 31, 1992, the State Board approved Tamco's Notice of Intent to Comply With the Terms of the General Permit to Discharge Storm Water Associated with Industrial Activity ("NOI"). In its NOI, Tamco has certified that the Facility is classified under SIC Code 3312 (steel works). The Facility discharges storm water from its 60-acre industrial site through at least three storm water outfalls. On information and belief, CCAEJ alleges that Tamco's industrial activities at the site include the operation of a steel mini-mill which recycles ferrous scrap metals into concrete reinforcing bars ("rebar"). CCAEJ is informed and believes that all storm water discharged from the site is associated with industrial activity or, alternatively, includes commingled storm water from both industrial and non-industrial activity. The outfalls discharge into San Bernardino County's municipal storm sewer system, which discharges into Day Creek, which flows into Reach 3 of the Santa Ana River.

The Regional Board has identified beneficial uses of the Santa Ana River, including its tributary, Day Creek, and established water quality standards for it in the "Water Quality Control Plan for the Santa Ana River Basin (Region 8)," generally referred to as the Basin Plan. See http://www.swrcb.ca.gov/rwqcb8/water_issues/programs/basin_plan/index.shtml. The beneficial uses of these waters include, among others, municipal and domestic supply, groundwater recharge, water contact recreation, non-contact water recreation, cold freshwater habitat, wildlife habitat, agricultural supply, warm freshwater habitat, and rare, threatened or endangered species.

The non-contact water recreation use is defined as "[u]ses of water for recreational activities involving proximity to water, but not normally involving contact with water where water ingestion is reasonably possible. These uses include, but are not limited to, picnicking,

0057-DWQ. The new permit, however, does not go into effect until July 1, 2015. Until that time, the current General Permit remains in full force and effect.

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sunbathing, hiking, beachcombing, camping, boating, tidepool and marine life study, hunting, sightseeing, or aesthetic enjoyment in conjunction with the above activities.” *Id.* at 3-3. Contact recreation use includes fishing and wading. *Id.* at 3-2. Visible pollution, including visible sheens and cloudy or muddy water from industrial areas, impairs people’s use of the Santa Ana River for contact and non-contact water recreation.

The Basin Plan includes a narrative toxicity standard which states that “[t]oxic substances shall not be discharged at levels that will bioaccumulate in aquatic resources to levels which are harmful to human health.” *Id.* at 4-17. The Basin Plan includes a narrative oil and grease standard which states that “[w]aste discharges shall not result in deposition of oil, grease, wax, or other material in concentrations which result in a visible film or in coating objects in the water, or which cause a nuisance or adversely affect beneficial uses.” *Id.* at 4-15. The Basin Plan includes a narrative suspended and settleable solids standard which states that “waters shall not contain suspended or settleable solids in amounts which cause a nuisance or adversely affect beneficial uses...” *Id.* at 4-16. The Basin Plan provides that “[t]he pH of inland surface waters shall not be raised above 8.5 or depressed below 6.5...” *Id.* at 4-15. The Basin Plan contains a narrative floatables standard which states that “[w]aste discharges shall not contain floating materials, including solids, liquids, foam or scum, which cause a nuisance or adversely affect beneficial uses.” *Id.* at 4-11. The Basin Plan contains a narrative color standard which states that “[w]aste discharges shall not result in coloration of the receiving waters which causes a nuisance or adversely affect beneficial uses.” *Id.* at 4-10.

The Basin Plan also sets out numeric water quality standards for Reach 3 of the Santa Ana River, and includes Site Specific Objective (“SSOs”) of 0.0017 mg/L for cadmium, 0.0182 mg/L for copper, and 0.0041 mg/L for lead.² *Id.* at 4-14.

The EPA has adopted the freshwater numeric water quality standards (Criteria Maximum Concentrations – “CMCs”) of 0.0043 mg/L for cadmium, 0.013 mg/L for copper, 0.065 mg/L for lead, and 0.120 mg/L for zinc. 65 Fed.Reg. 31712 (May 18, 2000) (California Toxics Rule).³

The 2008-2010 EPA 303(d) List of Water Quality Limited Segments lists Reach 3 of the Santa Ana River – the water into which the Facility’s storm water is discharged – as impaired for copper. See http://www.waterboards.ca.gov/centralvalley/water_issues/tmdl/impaired_waters_list/2008_2010_usepa_303dlist/20082010_usepa_aprvd_303dlist.pdf. In October 2011, EPA added additional waters to the 303(d) list, including the addition of Reach 3 of the Santa Ana River as impaired for lead. See <http://www.epa.gov/region9/water/tmdl/303d-pdf/Final-DecisLtrEnclosResponsSumCA2008-10-303d.pdf>.

² The SSO values are expressed as a function of total hardness (mg/L) in the water body, and correspond to a total hardness of 200 mg/L as indicated in the Basin Plan.

³ The benchmark values for copper and zinc are expressed as a function of total hardness (mg/L) in the water body and correspond to a total hardness of 100 mg/L, which is the default listing in the California Toxics Rule.

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The EPA has published benchmark levels as guidelines for determining whether a facility discharging industrial storm water has implemented the requisite best available technology economically achievable ("BAT") and best conventional pollutant control technology ("BCT").⁴ The following benchmarks have been established for pollutants discharged by Tamco: pH – 6.0 - 9.0 standard units ("s.u."); total suspended solids ("TSS") – 100 mg/L, oil and grease ("O&G") – 15 mg/L, aluminum – 0.75 mg/L, cadmium – 0.0159 mg/L, copper – 0.0156 mg/L, iron – 1.0 mg/L, lead – 0.0816 mg/L, manganese – 1.0 mg/L, and zinc – 0.13 mg/L.⁵

II. Alleged Violations of the NPDES Permit.

A. Discharges in Violation of the Permit

Tamco has violated and continues to violate the terms and conditions of the General Permit. Section 402(p) of the Act prohibits the discharge of storm water associated with industrial activities, except as permitted under an NPDES permit (33 U.S.C. § 1342) such as the General Permit. The General Permit prohibits any discharges of storm water associated with industrial activities or authorized non-storm water discharges that have not been subjected to BAT or BCT. Effluent Limitation B(3) of the General Permit requires dischargers to reduce or prevent pollutants in their storm water discharges through implementation of BAT for toxic and nonconventional pollutants and BCT for conventional pollutants. BAT and BCT include both nonstructural and structural measures. General Permit, Section A(8). Conventional pollutants are TSS, O&G, pH, biochemical oxygen demand, and fecal coliform. 40 C.F.R. § 401.16. All other pollutants are either toxic or nonconventional. *Id.*; 40 C.F.R. § 401.15.

In addition, Discharge Prohibition A(1) of the General Permit prohibits the discharge of materials other than storm water (defined as non-storm water discharges) that discharge either directly or indirectly to waters of the United States. Discharge Prohibition A(2) of the General Permit prohibits storm water discharges and authorized non-storm water discharges that cause or threaten to cause pollution, contamination, or nuisance.

Receiving Water Limitation C(1) of the General Permit prohibits storm water discharges and authorized non-storm water discharges to surface or groundwater that adversely impact human health or the environment. Receiving Water Limitation C(2) of the General Permit also prohibits storm water discharges and authorized non-storm water discharges that cause or contribute to an exceedance of any applicable water quality standards contained in a Statewide Water Quality Control Plan or the applicable Regional Board's Basin Plan. The General Permit does not authorize the application of any mixing zones for complying with Receiving Water

⁴ The Benchmark Values can be found at:

http://www.epa.gov/npdes/pubs/msgp2008_finalpermit.pdf and

<http://cwea.org/p3s/documents/multi-sectorrev.pdf> (Last accessed on October 7, 2014).

⁵ The values for copper and zinc are hardness-dependent. The values listed here are based on a hardness range of 100 – 125 mg/L CaCO₃, which is the default listing in the California Toxics Rule.

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Limitation C(2). As a result, compliance with this provision is measured at the Facility's discharge monitoring locations.

Tamco has discharged and continues to discharge storm water with unacceptable levels of pH, TSS, aluminum, copper, iron, lead, manganese, zinc, and other pollutants in violation of the General Permit. Tamco's sampling and analysis results reported to the Regional Board confirm discharges of specific pollutants and materials other than storm water in violation of the Permit provisions listed above. Self-monitoring reports under the Permit are deemed "conclusive evidence of an exceedance of a permit limitation." *Sierra Club v. Union Oil*, 813 F.2d 1480, 1492 (9th Cir. 1988).

The following discharges of pollutants from the Facility have contained concentrations of pollutants in excess of numeric water quality standards established in the Basin Plan and the California Toxics Rule as well as narrative water quality standards in the Basin Plan and have thus violated Discharge Prohibitions A(1) and A(2) and Receiving Water Limitations C(1) and C(2) and are evidence of ongoing violations of Effluent Limitation B(3) of the General Permit.

Date	Parameter	Observed Concentration / Conditions	Basin Plan Water Quality Standard / California Toxics Rule	Outfall (as identified by the Facility)
2/27/2014	pH	8.53 s.u.	6.5 – 8.5 s.u.	Outfall #3
12/18/2012	pH	8.88 s.u.	6.5 – 8.5 s.u.	South East Box Outfall #1
12/18/2012	pH	8.76 s.u.	6.5 – 8.5 s.u.	Channel Weir Outfall #2
12/18/2012	pH	9.39 s.u.	6.5 – 8.5 s.u.	West Trench Outfall #3
10/11/2012	pH	9.91 s.u.	6.5 – 8.5 s.u.	South East Box Outfall #1
10/11/2012	pH	9.82 s.u.	6.5 – 8.5 s.u.	Channel Weir Outfall #2
10/11/2012	pH	9.96 s.u.	6.5 – 8.5 s.u.	West Trench Outfall #3
12/12/2011	pH	9.19 s.u.	6.5 – 8.5 s.u.	East Outfall #1
12/17/2010	pH	8.55 s.u.	6.5 – 8.5 s.u.	Outfall #3
12/17/2010	pH	8.71 s.u.	6.5 – 8.5 s.u.	Arrow Rte
3/21/2011	pH	9.37 s.u.	6.5 – 8.5 s.u.	Ameron East
1/18/2010	pH	8.57 s.u.	6.5 – 8.5 s.u.	East Outfall #1
1/18/2010	pH	8.78 s.u.	6.5 – 8.5 s.u.	South-East Outfall #2
1/18/2010	pH	8.76 s.u.	6.5 – 8.5 s.u.	Pond Outfall #3
12/7/2009	pH	8.65 s.u.	6.5 – 8.5 s.u.	East Outfall #1
10/14/2009	pH	8.65 s.u.	6.5 – 8.5 s.u.	East Outfall #1

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12/18/2012	Cadmium	0.012 mg/L	0.0017 mg/L (SSO) / 0.0043 mg/L (CMC)	South East Box Outfall #1
10/11/2012	Cadmium	0.011 mg/L	0.0017 mg/L (SSO) / 0.0043 mg/L (CMC)	Channel Weir Outfall #2
2/27/2014	Copper	0.077 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	Outfall #1
2/27/2014	Copper	0.122 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	Outfall #2
2/27/2014	Copper	0.045 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	Outfall #3
2/6/2014	Copper	0.096 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	Outfall #1
12/19/2013	Copper	0.113 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	Outfall #1
11/21/2013	Copper	0.133 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	Outfall #1
11/21/2013	Copper	0.071 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	Outfall #2
12/18/2012	Copper	0.563 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	South East Box Outfall #1
12/18/2012	Copper	0.061 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	Channel Weir Outfall #2
12/18/2012	Copper	0.129 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	West Trench Outfall #3
10/11/2012	Copper	0.233 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	South East Box Outfall #1
10/11/2012	Copper	0.296 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	Channel Weir Outfall #2
10/11/2012	Copper	0.146 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	West Trench Outfall #3
12/12/2011	Copper	0.359 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	East Outfall #1
12/12/2011	Copper	0.068 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	South-East Outfall #2
12/12/2011	Copper	0.15 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	West Outfall #3
10/5/2011	Copper	0.45 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	East Outfall #1
10/5/2011	Copper	0.442 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	South-East Outfall #2
10/5/2011	Copper	0.225 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	West Outfall #3
10/6/2010	Copper	0.214 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	Outfall #1

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12/17/2010	Copper	0.054 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	Outfall #1
12/17/2010	Copper	0.034 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	Outfall #2
12/17/2010	Copper	0.091 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	Ameron East
12/17/2010	Copper	0.074 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	Outfall #3
12/17/2010	Copper	0.102 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	Arrow Rte
3/21/2011	Copper	0.076 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	Outfall #1
3/21/2011	Copper	0.02 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	Outfall #2
3/21/2011	Copper	0.036 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	Outfall #3
3/21/2011	Copper	0.038 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	Arrow Rte
1/18/2010	Copper	0.117 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	East Outfall #1
1/18/2010	Copper	0.198 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	South-East Outfall #2
1/18/2010	Copper	0.105 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	Pond Outfall #3
12/7/2009	Copper	0.136 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	East Outfall #1
12/7/2009	Copper	0.09 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	South-East Outfall #2
10/14/2009	Copper	0.302 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	East Outfall #1
10/14/2009	Copper	0.11 mg/L	0.0182 mg/L (SSO) / 0.013 mg/L (CMC)	South-East Outfall #2
2/27/2014	Lead	0.049 mg/L	0.0041 mg/L (SSO)	Outfall #1
2/27/2014	Lead	0.07 mg/L	0.0041 mg/L (SSO) / 0.065 mg/L (CMC)	Outfall #2
2/27/2014	Lead	0.032 mg/L	0.0041 mg/L (SSO)	Outfall #3
2/6/2014	Lead	0.027 mg/L	0.0041 mg/L (SSO)	Outfall #1
12/19/2013	Lead	0.037 mg/L	0.0041 mg/L (SSO)	Outfall #1
11/21/2013	Lead	0.096 mg/L	0.0041 mg/L (SSO) / 0.065 mg/L (CMC)	Outfall #1
11/21/2013	Lead	0.031 mg/L	0.0041 mg/L (SSO)	Outfall #2
12/18/2012	Lead	0.382 mg/L	0.0041 mg/L (SSO) / 0.065 mg/L (CMC)	South East Box Outfall #1

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12/18/2012	Lead	0.248 mg/L	0.0041 mg/L (SSO) / 0.065 mg/L (CMC)	West Trench Outfall #3
10/11/2012	Lead	0.266 mg/L	0.0041 mg/L (SSO) / 0.065 mg/L (CMC)	South East Box Outfall #1
10/11/2012	Lead	0.314 mg/L	0.0041 mg/L (SSO) / 0.065 mg/L (CMC)	Channel Weir Outfall #2
10/11/2012	Lead	0.195 mg/L	0.0041 mg/L (SSO) / 0.065 mg/L (CMC)	West Trench Outfall #3
12/12/2011	Lead	0.27 mg/L	0.0041 mg/L (SSO) / 0.065 mg/L (CMC)	East Outfall #1
12/12/2011	Lead	0.023 mg/L	0.0041 mg/L (SSO)	South-East Outfall #2
12/12/2011	Lead	0.154 mg/L	0.0041 mg/L (SSO) / 0.065 mg/L (CMC)	West Outfall #3
10/5/2011	Lead	0.33 mg/L	0.0041 mg/L (SSO) / 0.065 mg/L (CMC)	East Outfall #1
10/5/2011	Lead	0.36 mg/L	0.0041 mg/L (SSO) / 0.065 mg/L (CMC)	South-East Outfall #2
10/5/2011	Lead	0.277 mg/L	0.0041 mg/L (SSO) / 0.065 mg/L (CMC)	West Outfall #3
10/6/2010	Lead	0.087 mg/L	0.0041 mg/L (SSO) / 0.065 mg/L (CMC)	Outfall #1
12/17/2010	Lead	0.036 mg/L	0.0041 mg/L (SSO)	Outfall #1
12/17/2010	Lead	0.019 mg/L	0.0041 mg/L (SSO)	Outfall #2
12/17/2010	Lead	0.067 mg/L	0.0041 mg/L (SSO) / 0.065 mg/L (CMC)	Ameron East
12/17/2010	Lead	0.083 mg/L	0.0041 mg/L (SSO) / 0.065 mg/L (CMC)	Outfall #3
12/17/2010	Lead	0.079 mg/L	0.0041 mg/L (SSO) / 0.065 mg/L (CMC)	Arrow Rte
3/21/2011	Lead	0.07 mg/L	0.0041 mg/L (SSO) / 0.065 mg/L (CMC)	Outfall #1
3/21/2011	Lead	0.019 mg/L	0.0041 mg/L (SSO)	Outfall #2
3/21/2011	Lead	0.052 mg/L	0.0041 mg/L (SSO)	Outfall #3
3/21/2011	Lead	0.03 mg/L	0.0041 mg/L (SSO)	Arrow Rte
1/18/2010	Lead	0.095 mg/L	0.0041 mg/L (SSO) / 0.065 mg/L (CMC)	East Outfall #1
1/18/2010	Lead	0.154 mg/L	0.0041 mg/L (SSO) / 0.065 mg/L (CMC)	South-East Outfall #2
1/18/2010	Lead	0.155 mg/L	0.0041 mg/L (SSO) / 0.065 mg/L (CMC)	Pond Outfall #3
12/7/2009	Lead	0.092 mg/L	0.0041 mg/L (SSO) / 0.065 mg/L (CMC)	East Outfall #1

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12/7/2009	Lead	0.01 mg/L	0.0041 mg/L (SSO)	South-East Outfall #2
10/14/2009	Lead	0.198 mg/L	0.0041 mg/L (SSO) / 0.065 mg/L (CMC)	East Outfall #1
10/14/2009	Lead	0.033 mg/L	0.0041 mg/L (SSO)	South-East Outfall #2
2/27/2014	Zinc	0.81 mg/L	0.12 mg/L (CMC)	Outfall #1
2/27/2014	Zinc	0.852 mg/L	0.12 mg/L (CMC)	Outfall #2
2/27/2014	Zinc	0.232 mg/L	0.12 mg/L (CMC)	Outfall #3
2/6/2014	Zinc	1.42 mg/L	0.12 mg/L (CMC)	Outfall #1
12/19/2013	Zinc	1.37 mg/L	0.12 mg/L (CMC)	Outfall #1
11/21/2013	Zinc	1.23 mg/L	0.12 mg/L (CMC)	Outfall #1
11/21/2013	Zinc	0.226 mg/L	0.12 mg/L (CMC)	Outfall #2
12/18/2012	Zinc	3.32 mg/L	0.12 mg/L (CMC)	South East Box Outfall #1
12/18/2012	Zinc	0.348 mg/L	0.12 mg/L (CMC)	Channel Weir Outfall #2
12/18/2012	Zinc	1.22 mg/L	0.12 mg/L (CMC)	West Trench Outfall #3
10/11/2012	Zinc	2.25 mg/L	0.12 mg/L (CMC)	South East Box Outfall #1
10/11/2012	Zinc	3.17 mg/L	0.12 mg/L (CMC)	Channel Weir Outfall #2
10/11/2012	Zinc	1.12 mg/L	0.12 mg/L (CMC)	West Trench Outfall #3
12/12/2011	Zinc	2.28 mg/L	0.12 mg/L (CMC)	East Outfall #1
12/12/2011	Zinc	0.317 mg/L	0.12 mg/L (CMC)	South-East Outfall #2
12/12/2011	Zinc	1.08 mg/L	0.12 mg/L (CMC)	West Outfall #3
10/5/2011	Zinc	2.48 mg/L	0.12 mg/L (CMC)	East Outfall #1
10/5/2011	Zinc	2.76 mg/L	0.12 mg/L (CMC)	South-East Outfall #2
10/5/2011	Zinc	2.35 mg/L	0.12 mg/L (CMC)	West Outfall #3
10/6/2010	Zinc	1.95 mg/L	0.12 mg/L (CMC)	Outfall #1
12/17/2010	Zinc	0.406 mg/L	0.12 mg/L (CMC)	Outfall #1
12/17/2010	Zinc	0.442 mg/L	0.12 mg/L (CMC)	Outfall #2
12/17/2010	Zinc	0.537 mg/L	0.12 mg/L (CMC)	Ameron East
12/17/2010	Zinc	0.835 mg/L	0.12 mg/L (CMC)	Arrow Rte
12/17/2010	Zinc	0.612 mg/L	0.12 mg/L (CMC)	Outfall #1
3/21/2011	Zinc	0.859 mg/L	0.12 mg/L (CMC)	Outfall #2
3/21/2011	Zinc	0.422 mg/L	0.12 mg/L (CMC)	Outfall #3
3/21/2011	Zinc	0.626 mg/L	0.12 mg/L (CMC)	Arrow Rte
3/21/2011	Zinc	0.374 mg/L	0.12 mg/L (CMC)	Ameron East

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1/18/2010	Zinc	0.814 mg/L	0.12 mg/L (CMC)	East Outfall #1
1/18/2010	Zinc	1.08 mg/L	0.12 mg/L (CMC)	South-East Outfall #2
1/18/2010	Zinc	1.62 mg/L	0.12 mg/L (CMC)	Pond Outfall #3
12/7/2009	Zinc	1.08 mg/L	0.12 mg/L (CMC)	East Outfall #1
12/7/2009	Zinc	0.147 mg/L	0.12 mg/L (CMC)	South-East Outfall #2
10/14/2009	Zinc	2.21 mg/L	0.12 mg/L (CMC)	East Outfall #1
10/14/2009	Zinc	2.08 mg/L	0.12 mg/L (CMC)	South-East Outfall #2
12/18/2012	Narrative	Turbid/Cloudy	Basin Plan at 4-16	South East Box Outfall #1
10/11/2012	Narrative	Turbid/Cloudy	Basin Plan at 4-16	South East Box Outfall #1
12/12/2011	Narrative	Cloudy/Oil Sheen	Basin Plan at 4-15; Basin Plan at 4-16	East Outfall #1
10/5/2011	Narrative	Cloudy/Oil Sheen	Basin Plan at 4-15; Basin Plan at 4-16	East Outfall #1
12/17/2010	Narrative	Oil Sheen	Basin Plan at 4-15	Outfall #1
12/7/2009	Narrative	Debris	Basin Plan at 4-11	South-East Outfall #2
10/14/2009	Narrative	Turbid/Debris	Basin Plan at 4-11; Basin Plan at 4-16	East Outfall #1
10/14/2009	Narrative	Turbid/Debris	Basin Plan at 4-11; Basin Plan at 4-16	South-East Outfall #2

The information in the above table reflects data gathered from Tamco's self-monitoring during the 2009-2010, 2010-2011, 2011-2012, 2012-2013, and 2013-2014 wet seasons. CCAEJ alleges that during each of those wet seasons and continuing through today, Tamco has discharged storm water contaminated with pollutants at levels or observations that exceed or violate one or more applicable water quality standards, including but not limited to each of the following:

- pH – 6.5 – 8.5 s.u. (Basin Plan)
- Cadmium – 0.0017 mg/L (SSO)
- Cadmium – 0.0043 mg/L (CMC)
- Copper – 0.0182 mg/L (SSO)
- Copper – 0.013 mg/L (CMC)
- Lead – 0.0041 mg/L (SSO)
- Lead – 0.065 mg/L (CMC)
- Zinc – 0.12 mg/L (CMC)
- Floatables – Waste discharges shall not contain floating materials, including solids, liquids, foam or scum, which cause a nuisance or adversely affect beneficial uses. (Basin Plan at 4-11)

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- Suspended and Settleable Solids – Waters shall not contain suspended or settleable solids in amounts which cause a nuisance or adversely affect beneficial uses. (Basin Plan at 4-16)
- Oil and Grease – Waste discharges shall not result in deposition of oil, grease, wax, or other material in concentrations which result in a visible film or in coating objects in the water, or which cause a nuisance or adversely affect beneficial uses. (Basin Plan at 4-15)

The following discharges of pollutants from the Facility have violated Discharge Prohibitions A(1) and A(2) and Receiving Water Limitations C(1) and C(2) and are evidence of ongoing violations of Effluent Limitation B(3) of the General Permit.

Date	Parameter	Observed Concentration	EPA Benchmark Value	Location (as identified by the Facility)
2/27/2014	Total Suspended Solids	184 mg/L	100 mg/L	Outfall #1
2/27/2014	Zinc	0.81 mg/L	0.13 mg/L	Outfall #1
2/27/2014	Iron	4.3 mg/L	1.0 mg/L	Outfall #1
2/27/2014	Aluminum	2.68 mg/L	0.75 mg/L	Outfall #1
2/27/2014	Copper	0.077 mg/L	0.0156 mg/L	Outfall #1
2/27/2014	Zinc	0.852 mg/L	0.13 mg/L	Outfall #2
2/27/2014	Iron	4.65 mg/L	1.0 mg/L	Outfall #2
2/27/2014	Aluminum	2.18 mg/L	0.75 mg/L	Outfall #2
2/27/2014	Copper	0.122 mg/L	0.0156 mg/L	Outfall #2
2/27/2014	Total Suspended Solids	103 mg/L	100 mg/L	Outfall #3
2/27/2014	Iron	2.1 mg/L	1.0 mg/L	Outfall #3
2/27/2014	Aluminum	2.07 mg/L	0.75 mg/L	Outfall #3
2/27/2014	Copper	0.045 mg/L	0.0156 mg/L	Outfall #3
2/6/2014	Total Suspended Solids	164 mg/L	100 mg/L	Outfall #1
2/6/2014	Zinc	1.42 mg/L	0.13 mg/L	Outfall #1
2/6/2014	Iron	3 mg/L	1.0 mg/L	Outfall #1
2/6/2014	Aluminum	1.71 mg/L	0.75 mg/L	Outfall #1
2/6/2014	Copper	0.096 mg/L	0.0156 mg/L	Outfall #1
12/19/2013	Zinc	1.37 mg/L	0.13 mg/L	Outfall #1
12/19/2013	Iron	4.34 mg/L	1.0 mg/L	Outfall #1
12/19/2013	Aluminum	2.79 mg/L	0.75 mg/L	Outfall #1
12/19/2013	Copper	0.113 mg/L	0.0156 mg/L	Outfall #1
11/21/2013	Total Suspended Solids	277 mg/L	100 mg/L	Outfall #1
11/21/2013	Lead	0.096 mg/L	0.0816 mg/L	Outfall #1
11/21/2013	Zinc	1.23 mg/L	0.13 mg/L	Outfall #1
11/21/2013	Iron	8.42 mg/L	1.0 mg/L	Outfall #1
11/21/2013	Aluminum	7.15 mg/L	0.75 mg/L	Outfall #1
11/21/2013	Copper	0.133 mg/L	0.0156 mg/L	Outfall #1
11/21/2013	Manganese	1.55 mg/L	1.0 mg/L	Outfall #1

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11/21/2013	Zinc	0.226 mg/L	0.13 mg/L	Outfall #2
11/21/2013	Iron	2.34 mg/L	1.0 mg/L	Outfall #2
11/21/2013	Aluminum	1.35 mg/L	0.75 mg/L	Outfall #2
11/21/2013	Copper	0.071 mg/L	0.0156 mg/L	Outfall #2
12/18/2012	Total Suspended Solids	1500 mg/L	100 mg/L	South East Box Outfall #1
12/18/2012	Lead	0.382 mg/L	0.0816 mg/L	South East Box Outfall #1
12/18/2012	Zinc	3.32 mg/L	0.13 mg/L	South East Box Outfall #1
12/18/2012	Iron	10.6 mg/L	1.0 mg/L	South East Box Outfall #1
12/18/2012	Aluminum	21.6 mg/L	0.75 mg/L	South East Box Outfall #1
12/18/2012	Copper	0.563 mg/L	0.0156 mg/L	South East Box Outfall #1
12/18/2012	Manganese	5.69 mg/L	1.0 mg/L	South East Box Outfall #1
12/18/2012	Zinc	0.348 mg/L	0.13 mg/L	Channel Weir Outfall #2
12/18/2012	Iron	2.96 mg/L	1.0 mg/L	Channel Weir Outfall #2
12/18/2012	Aluminum	1.48 mg/L	0.75 mg/L	Channel Weir Outfall #2
12/18/2012	Copper	0.061 mg/L	0.0156 mg/L	Channel Weir Outfall #2
12/18/2012	pH	9.39 mg/L	6.0 – 9.0 s.u	West Trench Outfall #3
12/18/2012	Total Suspended Solids	615 mg/L	100 mg/L	West Trench Outfall #3
12/18/2012	Lead	0.248 mg/L	0.0816 mg/L	West Trench Outfall #3
12/18/2012	Zinc	1.22 mg/L	0.13 mg/L	West Trench Outfall #3
12/18/2012	Iron	5.27 mg/L	1.0 mg/L	West Trench Outfall #3
12/18/2012	Aluminum	7.31 mg/L	0.75 mg/L	West Trench Outfall #3
12/18/2012	Copper	0.129 mg/L	0.0156 mg/L	West Trench Outfall #3
10/11/2012	pH	9.91 mg/L	6.0 – 9.0 s.u	South East Box Outfall #1
10/11/2012	Total Suspended Solids	1,020 mg/L	100 mg/L	South East Box Outfall #1
10/11/2012	Lead	0.266 mg/L	0.0816 mg/L	South East Box Outfall #1
10/11/2012	Zinc	2.25 mg/L	0.13 mg/L	South East Box Outfall #1
10/11/2012	Iron	8.56 mg/L	1.0 mg/L	South East Box Outfall #1
10/11/2012	Aluminum	9.25 mg/L	0.75 mg/L	South East Box Outfall #1
10/11/2012	Copper	0.233 mg/L	0.0156 mg/L	South East Box Outfall #1

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10/5/2011	Total Suspended Solids	764 mg/L	100 mg/L	South-East Outfall #2
10/5/2011	Lead	0.36 mg/L	0.0816 mg/L	South-East Outfall #2
10/5/2011	Zinc	2.76 mg/L	0.13 mg/L	South-East Outfall #2
10/5/2011	Iron	63.3 mg/L	1.0 mg/L	South-East Outfall #2
10/5/2011	Aluminum	26.8 mg/L	0.75 mg/L	South-East Outfall #2
10/5/2011	Copper	0.442 mg/L	0.0156 mg/L	South-East Outfall #2
10/5/2011	Manganese	5.39 mg/L	1.0 mg/L	South-East Outfall #2
10/5/2011	Total Suspended Solids	250 mg/L	100 mg/L	West Outfall #3
10/5/2011	Lead	0.277 mg/L	0.0816 mg/L	West Outfall #3
10/5/2011	Zinc	2.35 mg/L	0.13 mg/L	West Outfall #3
10/5/2011	Iron	24.8 mg/L	1.0 mg/L	West Outfall #3
10/5/2011	Aluminum	6.51 mg/L	0.75 mg/L	West Outfall #3
10/5/2011	Copper	0.225 mg/L	0.0156 mg/L	West Outfall #3
10/5/2011	Manganese	1.19 mg/L	1.0 mg/L	West Outfall #3
10/6/2010	Total Suspended Solids	439 mg/L	100 mg/L	Outfall #1
10/6/2010	Lead	0.087 mg/L	0.0816 mg/L	Outfall #1
10/6/2010	Zinc	1.95 mg/L	0.13 mg/L	Outfall #1
10/6/2010	Iron	5.76 mg/L	1.0 mg/L	Outfall #1
10/6/2010	Aluminum	4.26 mg/L	0.75 mg/L	Outfall #1
10/6/2010	Copper	0.214 mg/L	0.0156 mg/L	Outfall #1
10/6/2010	Manganese	1.15 mg/L	1.0 mg/L	Outfall #1
12/17/2010	Total Suspended Solids	219 mg/L	100 mg/L	Outfall #1
12/17/2010	Lead	0.087 mg/L	0.0816 mg/L	Outfall #1
12/17/2010	Zinc	0.406 mg/L	0.13 mg/L	Outfall #1
12/17/2010	Iron	5.31 mg/L	1.0 mg/L	Outfall #1
12/17/2010	Aluminum	2.63 mg/L	0.75 mg/L	Outfall #1
12/17/2010	Copper	0.054 mg/L	0.0156 mg/L	Outfall #1
12/17/2010	Zinc	0.442 mg/L	0.13 mg/L	Outfall #2
12/17/2010	Copper	0.034 mg/L	0.0156 mg/L	Outfall #2
12/17/2010	Total Suspended Solids	504 mg/L	100 mg/L	Ameron East
12/17/2010	Zinc	0.537 mg/L	0.13 mg/L	Ameron East
12/17/2010	Iron	24.4 mg/L	1.0 mg/L	Ameron East
12/17/2010	Aluminum	5.23 mg/L	0.75 mg/L	Ameron East
12/17/2010	Copper	0.091 mg/L	0.0156 mg/L	Ameron East
12/17/2010	Manganese	1.57 mg/L	1.0 mg/L	Ameron East
12/17/2010	Total Suspended Solids	114 mg/L	100 mg/L	Outfall #3
12/17/2010	Lead	0.083 mg/L	0.0816 mg/L	Outfall #3
12/17/2010	Zinc	0.835 mg/L	0.13 mg/L	Outfall #3
12/17/2010	Iron	5.07 mg/L	1.0 mg/L	Outfall #3
12/17/2010	Aluminum	1.49 mg/L	0.75 mg/L	Outfall #3
12/17/2010	Copper	0.074 mg/L	0.0156 mg/L	Outfall #3
12/17/2010	Total Suspended Solids	279 mg/L	100 mg/L	Arrow Rte
12/17/2010	Zinc	0.612 mg/L	0.13 mg/L	Arrow Rte

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12/17/2010	Iron	9.85 mg/L	1.0 mg/L	Arrow Rte
12/17/2010	Aluminum	8.35 mg/L	0.75 mg/L	Arrow Rte
12/17/2010	Copper	0.102 mg/L	0.0156 mg/L	Arrow Rte
12/17/2010	Manganese	2.18 mg/L	1.0 mg/L	Arrow Rte
3/21/2011	Total Suspended Solids	451 mg/L	100 mg/L	Outfall #1
3/21/2011	Zinc	0.859 mg/L	0.13 mg/L	Outfall #1
3/21/2011	Iron	5.81 mg/L	1.0 mg/L	Outfall #1
3/21/2011	Aluminum	3.17 mg/L	0.75 mg/L	Outfall #1
3/21/2011	Copper	0.076 mg/L	0.0156 mg/L	Outfall #1
3/21/2011	Manganese	1.25 mg/L	1.0 mg/L	Outfall #1
3/21/2011	Zinc	0.422 mg/L	0.13 mg/L	Outfall #2
3/21/2011	Iron	1.17 mg/L	1.0 mg/L	Outfall #2
3/21/2011	Copper	0.02 mg/L	0.0156 mg/L	Outfall #2
3/21/2011	Zinc	0.626 mg/L	0.13 mg/L	Outfall #3
3/21/2011	Iron	2.31 mg/L	1.0 mg/L	Outfall #3
3/21/2011	Copper	0.036 mg/L	0.0156 mg/L	Outfall #3
3/21/2011	Zinc	0.374 mg/L	0.13 mg/L	Arrow Rte
3/21/2011	Iron	2.48 mg/L	1.0 mg/L	Arrow Rte
3/21/2011	Aluminum	1.36 mg/L	0.75 mg/L	Arrow Rte
3/21/2011	Copper	0.038 mg/L	0.0156 mg/L	Arrow Rte
3/21/2011	pH	9.37 s.u.	6.0 – 9.0 s.u	Ameron East
1/18/2010	Total Suspended Solids	373 mg/L	100 mg/L	East Outfall #1
1/18/2010	Lead	0.095 mg/L	0.0816 mg/L	East Outfall #1
1/18/2010	Zinc	0.814 mg/L	0.13 mg/L	East Outfall #1
1/18/2010	Iron	8.93 mg/L	1.0 mg/L	East Outfall #1
1/18/2010	Aluminum	5.45 mg/L	0.75 mg/L	East Outfall #1
1/18/2010	Copper	0.117 mg/L	0.0156 mg/L	East Outfall #1
1/18/2010	Manganese	1.62 mg/L	1.0 mg/L	East Outfall #1
1/18/2010	Total Suspended Solids	470 mg/L	100 mg/L	South-East Outfall #2
1/18/2010	Lead	0.154 mg/L	0.0816 mg/L	South-East Outfall #2
1/18/2010	Zinc	1.08 mg/L	0.13 mg/L	South-East Outfall #2
1/18/2010	Iron	8.47 mg/L	1.0 mg/L	South-East Outfall #2
1/18/2010	Aluminum	6.3 mg/L	0.75 mg/L	South-East Outfall #2
1/18/2010	Copper	0.198 mg/L	0.0156 mg/L	South-East Outfall #2
1/18/2010	Manganese	1.54 mg/L	1.0 mg/L	South-East Outfall #2
1/18/2010	Total Suspended Solids	203 mg/L	100 mg/L	Pond Outfall #3
1/18/2010	Lead	0.155 mg/L	0.0816 mg/L	Pond Outfall #3
1/18/2010	Zinc	1.62 mg/L	0.13 mg/L	Pond Outfall #3
1/18/2010	Iron	6.52 mg/L	1.0 mg/L	Pond Outfall #3
1/18/2010	Aluminum	3.91 mg/L	0.75 mg/L	Pond Outfall #3
1/18/2010	Copper	0.105 mg/L	0.0156 mg/L	Pond Outfall #3
12/7/2009	Total Suspended Solids	343 mg/L	100 mg/L	East Outfall #1
12/7/2009	Lead	0.092 mg/L	0.0816 mg/L	East Outfall #1

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12/7/2009	Zinc	1.08 mg/L	0.13 mg/L	East Outfall #1
12/7/2009	Iron	6.42 mg/L	1.0 mg/L	East Outfall #1
12/7/2009	Aluminum	5.56 mg/L	0.75 mg/L	East Outfall #1
12/7/2009	Copper	0.136 mg/L	0.0156 mg/L	East Outfall #1
12/7/2009	Manganese	1.27 mg/L	1.0 mg/L	East Outfall #1
12/7/2009	Zinc	0.147 mg/L	0.13 mg/L	South-East Outfall #2
12/7/2009	Copper	0.09 mg/L	0.0156 mg/L	South-East Outfall #2
10/14/2009	Total Suspended Solids	340 mg/L	100 mg/L	East Outfall #1
10/14/2009	Lead	0.198 mg/L	0.0816 mg/L	East Outfall #1
10/14/2009	Zinc	2.21 mg/L	0.13 mg/L	East Outfall #1
10/14/2009	Iron	8.04 mg/L	1.0 mg/L	East Outfall #1
10/14/2009	Aluminum	13.7 mg/L	0.75 mg/L	East Outfall #1
10/14/2009	Copper	0.302 mg/L	0.0156 mg/L	East Outfall #1
10/14/2009	Manganese	2.21 mg/L	1.0 mg/L	East Outfall #1
10/14/2009	Zinc	2.08 mg/L	0.13 mg/L	South-East Outfall
10/14/2009	Iron	1.61 mg/L	1.0 mg/L	South-East Outfall
10/14/2009	Aluminum	1.7 mg/L	0.75 mg/L	South-East Outfall
10/14/2009	Copper	0.11 mg/L	0.0156 mg/L	South-East Outfall

The information in the above table reflects data gathered from Tamco's self-monitoring during the 2009-2010, 2010-2011, 2011-2012, 2012-2013, and 2013-2014 wet seasons. CCAEJ alleges that during each of those rainy seasons and continuing through today, Tamco has discharged storm water contaminated with pollutants at levels that exceed one or more applicable EPA Benchmarks, including but not limited to each of the following:

- pH – 6.0 – 9.0 s.u.
- Total Suspended Solids – 100 mg/L
- Aluminum – 0.75 mg/L
- Copper – 0.0156 mg/L
- Iron – 1.0 mg/L
- Lead – 0.0816 mg/L
- Manganese – 1.0 mg/L
- Zinc – 0.13 mg/L

CCAIEJ's investigation, including its review of Tamco's analytical results documenting pollutant levels in the Facility's storm water discharges well in excess of applicable water quality standards and the EPA's benchmark values indicates that Tamco has not implemented BAT and BCT at the Facility for its discharges of pH, TSS, aluminum, copper, iron, lead, manganese, zinc, and other pollutants in violation of Effluent Limitation B(3) of the General Permit. Tamco was required to have implemented BAT and BCT by no later than October 1, 1992, or since the date the Facility opened. Thus, Tamco is discharging polluted storm water associated with its industrial operations without having implemented BAT and BCT.

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In addition, the numbers listed in the tables above indicate that the Facility is discharging polluted storm water in violation of Discharge Prohibitions A(1) and A(2) and Receiving Water Limitations C(1) and C(2) of the General Permit. CCAEJ alleges that such violations also have occurred and will occur on other rain dates, including every significant rain event that has occurred since October 8, 2009, and that will occur at the Facility subsequent to the date of this Notice of Violation and Intent to File Suit. Attachment A, attached hereto, sets forth each of the specific rain dates on which CCAEJ alleges that Tamco has discharged storm water containing impermissible levels of pH, TSS, aluminum, and zinc in violation of Effluent Limitation B(3), Discharge Prohibitions A(1) and A(2), and Receiving Water Limitations C(1) and C(2) of the General Permit.⁶

These unlawful discharges from the Facility are ongoing. Each discharge of storm water containing any of these pollutants constitutes a separate violation of the General Industrial Storm Water Permit and the Act. Consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the federal Clean Water Act, Tamco is subject to penalties for violations of the General Permit and the Act since October 8, 2009.

B. Failure to Develop and Implement an Adequate Monitoring and Reporting Program

Section B of the General Permit describes the monitoring requirements for storm water and non-storm water discharges. Facilities are required to make monthly visual observations of storm water discharges (Section B(4)) and quarterly visual observations of both unauthorized and authorized non-storm water discharges (Section B(3)). Section B(5) requires facility operators to sample and analyze at least two storm water discharges from all storm water discharge locations during each wet season. Section B(7) requires that the visual observations and samples must represent the "quality and quantity of the facility's storm water discharges from the storm event."

The above-referenced data was obtained from the Facility's monitoring program as reported in its Annual Reports submitted to the Regional Board. This data is evidence that the Facility has violated various Discharge Prohibitions, Receiving Water Limitations, and Effluent Limitations in the General Permit. To the extent the storm water data collected by Tamco is not representative of the quality of the Facility's various storm water discharges and that the Facility failed to monitor all qualifying storm water discharges, CCAEJ, alleges that the Facility's monitoring program violates Sections B(3), (4), (5) and (7) of the General Permit.

The above violations are ongoing. Consistent with the five-year statute of limitations applicable to citizen enforcement actions brought pursuant to the federal Clean Water Act,

⁶ The rain dates are all the days when an average of 0.1" or more rain fell as measured by a weather station located approximately 15.5 miles away from the Facility in Riverside. Data from the weather station is available at http://www.ipm.ucdavis.edu/calludt.cgi/WXDESCRIPTION?STN=UC_RIVER.A (last accessed on October 8, 2014.)

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Tamco is subject to penalties for violations of the General Permit and the Act's monitoring and sampling requirements since October 8, 2014.

C. *Failure to Prepare, Implement, Review and Update an Adequate Storm Water Pollution Prevention Plan*

Section A and Provision E(2) of the General Permit require dischargers of storm water associated with industrial activity to develop, implement, and update an adequate storm water pollution prevention plan ("SWPPP") no later than October 1, 1992. Section A(1) and Provision E(2) require dischargers who submitted an NOI pursuant to the General Permit to continue following their existing SWPPP and implement any necessary revisions to their SWPPP in a timely manner, but in any case, no later than August 1, 1997.

The SWPPP must, among other requirements, identify and evaluate sources of pollutants associated with industrial activities that may affect the quality of storm and non-storm water discharges from the facility and identify and implement site-specific best management practices ("BMPs") to reduce or prevent pollutants associated with industrial activities in storm water and authorized non-storm water discharges (General Permit, Section A(2)). The SWPPP must include BMPs that achieve BAT and BCT (Effluent Limitation B(3)). The SWPPP must include: a description of individuals and their responsibilities for developing and implementing the SWPPP (General Permit, Section A(3)); a site map showing the facility boundaries, storm water drainage areas with flow pattern and nearby water bodies, the location of the storm water collection, conveyance and discharge system, structural control measures, impervious areas, areas of actual and potential pollutant contact, and areas of industrial activity (General Permit, Section A(4)); a list of significant materials handled and stored at the site (General Permit, Section A(5)); a description of potential pollutant sources including industrial processes, material handling and storage areas, dust and particulate generating activities, a description of significant spills and leaks, a list of all non-storm water discharges and their sources, and a description of locations where soil erosion may occur (General Permit, Section A(6)).

The SWPPP also must include an assessment of potential pollutant sources at the Facility and a description of the BMPs to be implemented at the Facility that will reduce or prevent pollutants in storm water discharges and authorized non-storm water discharges, including structural BMPs where non-structural BMPs are not effective (General Permit, Section A(7), (8)). The SWPPP must be evaluated to ensure effectiveness and must be revised where necessary (General Permit, Section A(9),(10)).

CCA EJ's investigation of the conditions at the Facility as well as Tamco's Annual Reports indicate that Tamco has been operating with an inadequately developed or implemented SWPPP in violation of the requirements set forth above. Tamco has failed to evaluate the effectiveness of its BMPs and to revise its SWPPP as necessary. Tamco has been in continuous violation of Section A and Provision E(2) of the General Permit every day since October 8, 2009, at the very latest, and will continue to be in violation every day that Tamco fails to prepare, implement, review, and update an effective SWPPP. Tamco is subject to penalties for violations of the General Permit and the Act occurring since October 8, 2009.

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D. Failure to File True and Correct Annual Reports

Section B(14) of the General Permit requires dischargers to submit an Annual Report by July 1st of each year to the executive officer of the relevant Regional Board. The Annual Report must be signed and certified by an appropriate corporate officer. General Permit, Sections B(14), C(9), (10). Section A(9)(d) of the General Permit requires the discharger to include in their annual report an evaluation of their storm water controls, including certifying compliance with the General Permit. *See also* General Permit, Sections C(9) and (10) and B(14).

For the last five years, Tamco and its agents, James Crompton and Matthew Jalali, inaccurately certified in its Annual Reports that the Facility was in compliance with the General Permit. Consequently, Tamco has violated Sections A(9)(d), B(14) and C(9) & (10) of the General Permit every time Tamco failed to submit a complete or correct report and every time Tamco or its agents falsely purported to comply with the Act. Tamco is subject to penalties for violations of Section (C) of the General Permit and the Act occurring since at least July 1, 2010.

III. Persons Responsible for the Violations.

CCA EJ puts Tamco, James Crompton, and Giannina Espinoza on notice that they are the persons responsible for the violations described above. If additional persons are subsequently identified as also being responsible for the violations set forth above, CCA EJ puts Tamco on notice that it intends to include those persons in this action.

IV. Name and Address of Noticing Parties.

The name, address, and telephone number of CCA EJ is as follows:

Penny Newman
Executive Director
Center for Community Action and Environmental Justice
P.O. Box 33124
Jurupa Valley, CA 92519
Tel. (951) 360-8451

V. Counsel.

CCA EJ has retained counsel to represent it in this matter. Please direct all communications to:

Michael R. Lozeau
Douglas J. Chermak
Lozeau Drury LLP
410 12th Street, Suite 250
Oakland, California 94607
Tel. (510) 836-4200

Gideon Kracov
The Law Office of Gideon Kracov
801 South Grand Avenue
11th Floor
Los Angeles, California 90017
Tel: (213) 629-2071

October 8, 2014

Tamco

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michael@lozeaudrury.com
doug@lozeaudrury.com

gk@gideonlaw.net

VI. Penalties.

Pursuant to Section 309(d) of the Act (33 U.S.C. § 1319(d)) and the Adjustment of Civil Monetary Penalties for Inflation (40 C.F.R. § 19.4) each separate violation of the Act subjects Tamco to a penalty of up to \$37,500 per day per violation. In addition to civil penalties, CCAEJ will seek injunctive relief preventing further violations of the Act pursuant to Sections 505(a) and (d) (33 U.S.C. § 1365(a) and (d)) and such other relief as permitted by law. Lastly, Section 505(d) of the Act (33 U.S.C. § 1365(d)), permits prevailing parties to recover costs and fees, including attorneys' fees.

CCAIEJ believes this Notice of Violations and Intent to File Suit sufficiently states grounds for filing suit. CCAIEJ intends to file a citizen suit under Section 505(a) of the Act against Tamco and its agents for the above-referenced violations upon the expiration of the 60-day notice period. However, during the 60-day notice period, CCAIEJ would be willing to discuss effective remedies for the violations noted in this letter. If you wish to pursue such discussions in the absence of litigation, CCAIEJ suggests that you initiate those discussions within the next 20 days so that they may be completed before the end of the 60-day notice period. CCAIEJ does not intend to delay the filing of a complaint in federal court if discussions are continuing when that period ends.

Sincerely,

Douglas J. Cherrak
Lozeau Drury LLP
Attorneys for Center for Community Action and
Environmental Justice

cc via first class mail: CSC – Lawyers Incorporating Service, Agent for Service of Process for
Tamco (Entity Number C0708768), 2710 Gateway Oaks Dr., Ste. 150N,
Sacramento, CA 95833

SERVICE LIST – via certified mail

Gina McCarthy, Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Thomas Howard, Executive Director
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

Eric Holder, U.S. Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530-0001

Citizen Suit Coordinator
Environment and Natural Resources Division
Law and Policy Section
P.O. Box 7415
Ben Franklin Station
Washington, DC 20044-7415

Jared Blumenfeld, Regional Administrator
U.S. EPA – Region 9
75 Hawthorne Street
San Francisco, CA, 94105

Kurt V. Berchtold, Executive Officer
Santa Ana Regional Water Quality Control Board
3737 Main Street, Suite 500
Riverside, CA 92501-3348

ATTCHMENT A

Rain Dates, Tamco, Rancho Cucamonga, California

	12/18/2010	2/27/2012
11/28/2009	12/19/2010	3/17/2012
12/7/2009	12/20/2010	3/18/2012
12/12/2009	12/21/2010	4/11/2012
12/13/2009	12/22/2010	4/13/2012
1/17/2010	12/25/2010	4/25/2012
1/18/2010	12/29/2010	4/26/2012
1/19/2010	1/2/2011	8/30/2012
1/20/2010	1/3/2011	10/11/2012
1/21/2010	1/30/2011	11/8/2012
1/22/2010	2/16/2011	12/12/2012
1/26/2010	2/18/2011	12/13/2012
2/5/2010	2/19/2011	12/24/2012
2/6/2010	2/25/2011	12/29/2012
2/9/2010	2/26/2011	1/24/2013
2/22/2010	3/20/2011	1/25/2013
2/27/2010	3/21/2011	2/8/2013
3/4/2010	3/23/2011	2/19/2013
3/6/2010	4/8/2011	3/8/2013
4/5/2010	5/18/2011	5/6/2013
4/12/2010	7/31/2011	10/9/2013
4/20/2010	10/5/2011	11/21/2013
4/22/2010	11/4/2011	12/7/2013
11/8/2010	11/6/2011	2/6/2014
11/20/2010	11/12/2011	2/28/2014
11/21/2010	11/20/2011	3/1/2014
11/24/2010	12/12/2011	4/1/2014
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12/6/2010	1/23/2012	4/25/2014
12/16/2010	2/15/2012	8/20/2014

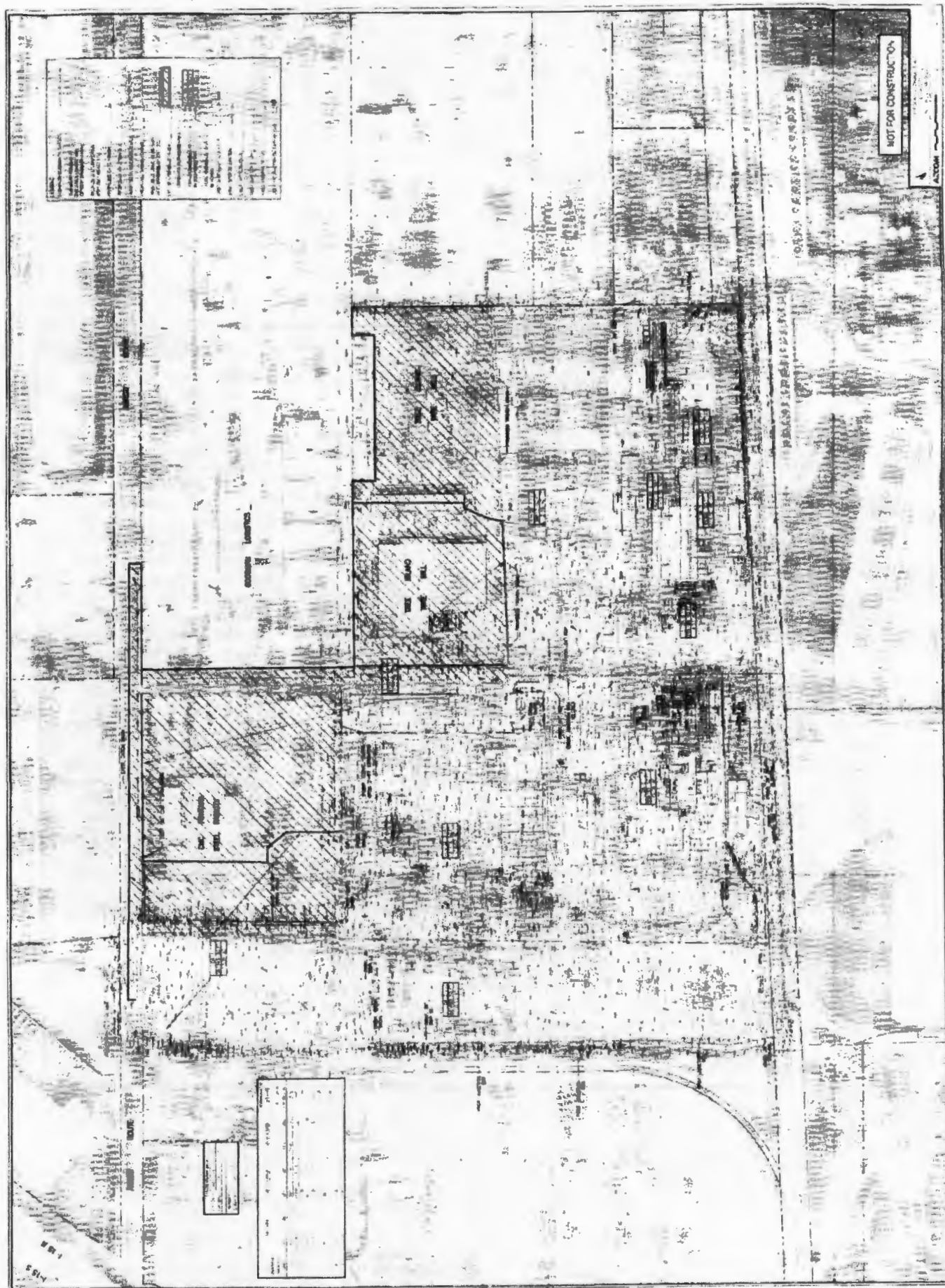
EXHIBIT C

Mr. Alfonso Reyna
Engineering Study for Stormwater
May 8, 2015
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TABLE 2
Diversionary Structures
Gerdau Rancho Cucamonga Facility

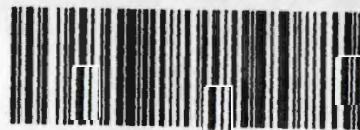
No.	Structure	Location	Purpose
1.	Concrete Swale	North property boundary separating Gerdau and CMC Steel.	Direct discharges from CMC Steel around Gerdau's industrial activities (slag, scrap metal, and billet) storage areas. Conveyance will discharge to the 36-inch diameter pipe described below (Item 2) and one of the two 24-inch diameter pipes described below (Item 3). Discharge will ultimately be conveyed to the southwest corner of the Site.
2.	One subsurface, 36-inch diameter pipe	Extend existing 36-inch diameter pipe located at the southwest corner of CMC Steel to the western boundary of the Site and then south to the southwest corner of the Site.	Divert stormwater from CMC Steel and Arrow Route around industrial activities and storage areas (slag, scrap metal, and billet) to a discharge point (outfall), located in the southwest corner of the Site.
3.	Two subsurface 24-inch diameter pipes	Facility entry way, located south of Guard Building	Collect stormwater from Juneberry Drive and Facility parking lot (including portion of CMC Steel run-on) and direct to 36-inch diameter elliptical pipe described below (Item 4).
4.	One subsurface 36-inch diameter elliptical pipe	Extends south of Item 3 (above), turns west at southeast corner of Baghouse, and terminates southwest of existing retention pond, located in southwest corner of the Site.	Discharge stormwater from Item 3 to area located southwest of retention pond.
5.	Trench Drain	North property boundary separating TI Wire on the north from Gerdau on the south.	Collect run-on from TI Wire to Site
6.	One subsurface 36-inch diameter pipe	Eastern boundary of Site	Convey stormwater from trench drain (Item 5) to outfall in southeast corner of the Site.

subject to coordination with TI Wire



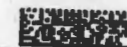
Lozeau Drury, LLP
410 12th Street #250
Oakland, CA 94607

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